

**THE DAUGHTERS OF ZELOPHEHAD: A NIGERIAN
PERSPECTIVE ON INHERITANCE OF LAND BY WOMEN
ACCORDING TO NUMBERS 27:1-11**

BY

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DECLARATION

I, the undersigned declare that the work contained in this thesis is my own original work and that I have not previously in its entirety or in part submitted it at any university for a degree.

Signature

Date

SUMMARY

THE DAUGHTERS OF ZELOPHEHAD: A NIGERIAN PERSPECTIVE ON THE INHERITANCE OF LAND BY WOMEN ACCORDING TO NUMBERS 27:1-11

Chapter one of this research and its hypothesis outlines the way in which land inheritance has been applied in past decades to the total exclusion of women. This study includes mainly the Ogba and Ekpeye and concentrates on areas where the Bible has been read for nearly 100 years without any appreciable impact on the cultural restrictions imposed on women with respect to the inheritance of land.

Chapter two highlights the practices of land tenure in both the ancient Near East (ANE) and ancient Israel, with specific emphasis on the concepts of *ahuzzah* and *nahalah*, the role of the kinsman redeemer (*goel*) in the redemption and retention of the family inheritance, and the importance of the dowry as a substitute for land inheritance.

Chapter three looks at the social and religious status of women in the ANE and ancient Israel, and illustrates the importance of women as daughters or wives. The specific inheritance rights enjoyed by women in ANE societies are also mentioned.

The inheritance rights of women in South-east Nigeria and the Niger Delta are covered in chapter four. The traditional system of land holding and the relationship between this system and the socio-economic status of women are discussed. Empirical evidence from the Niger Delta communities is given and a comparison made with other groups in Nigerië.

The thesis proceeds to make a functionally equivalent translation of the Zelophehad narrative (Num. 27:1-11) with the understanding that such unique texts, if properly understood, could impact on the cultural perceptions of the people in terms of the inheritance rights of women. This contrasts with the more literal, second language translations which seem not to have had any significant impact on the communities so far.

The final chapter makes an evaluation of the central hypothesis. Due to logistic difficulties, the application of the results of the research to the target communities may have to wait until funds are available to test the translation within the target communities. Such a test will have to be done over a period of time to determine its impact on the problem facing women with respect to inheritance rights.

OPSOMMING

DIE DOGTERS VAN SELOFGAD: 'N NIGERIESE PERSPEKTIEF OP DIE NALATENSKAP VAN GROND AAN VROUE VOLGENS NUMERI 27:1-11

Hoofstuk een van hierdie studie en hipotese fokus op die navorsingsvraag, naamlik die wyse waarop grondnalatenskap die afgelope dekades tot die algehele uitsluiting van vroue plaasgevind het. Die studie sluit hoofsaaklik die Ogba en Ekpeye in, en konsentreer op streke waar die Bybel die afgelope 100 jaar gelees is sonder enige noemenswaardige impak op die kulturele beperkings op vroue met betrekking tot die erf van grond.

Hoofstuk twee bespreek die grondbesitpraktyke in beide die antieke Nabye Ooste (ANO) en antieke Israel. Spesifieke aandag word geskenk aan die konsepte van *ahuzzah* en *nahalah*, die rol van die bloedverwant losser (*goel*) in die aflos en behoud van die familie erfenis, en die belang van die bruidskat as substituuat vir 'n nalatenskap van grond.

Hoofstuk drie kyk na die sosiale en godsdienstige status van vroue in die ANO en antieke Israel, en illustreer die belangrikheid van vroue as dogters of getroudes in die gemeenskap. Die spesifieke erfregte wat vroue in die ANO geniet het, word ook genoem.

Die erfreg van vroue in Suid-oos Nigerië en die Niger Delta word in hoofstuk vier gedek. Die tradisionele stelsel van grondbesit word bespreek, asook die verhouding tussen hierdie sisteem en die sosio-ekonomiese status van vroue. Empiriese bewyse uit die Niger Delta gemeenskappe word verskaf en 'n vergelyking getref met ander groepe in Nigerië.

Die tesis maak 'n funksioneel gelykwaardige vertaling van die Selofgad-verhaal (Num. 27:1-11), met die verstandhouding dat sulke unieke tekste, indien behoorlike verstaan, 'n impak kan hê op kulturele waarnemings ten opsigte van die erfreg van vroue. Dit kontrasteer met die meer letterlike, tweedetaal vertalings wat tot dusver skynbaar geen noemenswaardige impak op die gemeenskappe gehad het nie.

In die finale hoofstuk word die sentrale hipotese geëvalueer. Die toepassing van die resultate van die navorsing op die teikengemeenskappe sal, as gevolg van logistieke struikelblokke, moet wag tot fondse beskikbaar is om die vertaling op die teikengemeenskappe te toets. Sodanige toets sal oor 'n tydperk moet strek ten einde die impak daarvan op die probleem wat vroue ervaar ten opsigte van erfreg vas te stel.

DEDICATION

To my devoted mother

Mama Jesse Eziada Enoch Ahiamadu

(nee Ogunwa nwa Egba)

Sure,

God created the Man before He made the Woman.

But then you always make a rough draft before.....

the final MASTERPIECE !

- Miema Murray

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When I was a boy, my aged mother used to send me to her hometown which was about five kilometres away from my paternal home to spend my holidays with her brothers, cousins and relatives. During some weekends, she would ask me to take some of my friends along to visit my maternal relatives – uncles and cousins. On the way back from such visits we would be loaded with all kind of fruits – pears, cola nuts, coconuts etc plucked from the fruit-trees which her late father, Ogunwa, my maternal grandfather had planted when he was alive. He died without any son to inherit his property, and my mother along with her two older sisters had been married into other kindreds and far-away from his inheritance.

Over the years with the increasing population growth in both the kindred and community, my maternal grandfather's inheritance has been absorbed into the inheritance of the Okiri-ogbo family of Agwo-olu kindred of Oboburu community in Rivers State, Nigeria. Such an absorption is legitimized by the inheritance laws of the country, particularly by the native laws and customs of Ogba and Ekpeye peoples and the same laws are common to other Niger Delta communities, and indeed the nation in general. In patrilineal and patriarchal societies, women do not directly inherit property except as members of their husbands' families.

It was during one of our discussion sessions that Professor Hendrik Bosman drew my attention to the case of the Zelophehad daughters. It quickly caught my imagination, and its relevance to inheritance rights in a society like mine led me into the preparation of this thesis. Professor Bosman became therefore my Promoter, and someone who has provided valuable bibliographical and methodological insights which have made this research and writing of this thesis possible.

It is my hope that the completion of this thesis will serve as a catalyst for further research in an on-going effort to re-define women's role in our societies, particularly as it concerns issues of such a social and economic importance such as inheritance of land.

It has been pointed out by Biblical scholars that Africa and the ancient Near East as well as ancient Israel share lots of cultural traits in resonance with practices in the Old Testament. This implies that understanding the African culture and manners might go a

long way in explaining the cultural background of some Biblical texts – whether they are narrative, poetic or prophetic.

Hence, this thesis has explored the Biblical basis for the inheritance rights of women, and has done so in the light of prevalent cultural practices in parts of Africa, particularly among the Ogba and Ekpeye of the Niger Delta in Nigeria, West Africa. On the other hand the thesis has explored and utilized a functional equivalence approach to Bible translation and exegesis of the Zelophehad narrative in Numbers (27:1-11) with a view to highlighting it as a basis for a more hospitable attitude to the inheritance rights of Nigerian women.

I would like to acknowledge first and foremost Professor Hendrik Bosman for stimulating my interest, and for providing me with opportunities of discussion, learning and research. Also to be acknowledged are Professors Daniel Louw, and Elna Mouton (Dean and sub-Dean of the Faculty of Theology respectively) who provided me with an opportunity to serve as a Research Assistant in the Department of Old and New Testament.

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The healthy attitude which I have toward women has been the result of my mother Jesse's and my wife Julia's amiable and devoted manners. That I finally did a thesis of this magnitude on issues concerning the wellbeing of women in our society is an indication that some men will ever be grateful for the love and care which some women show not only towards their sons and daughters, but also towards their own husbands.

ABBREVIATIONS

AD	-	Anno Domini (i.e. in the year of our Lord)
ANE	-	Ancient Near East
BCE	-	Before the Common Era
BDB	-	Brown, Driver & Briggs
BHS	-	Biblia Hebraica Stuttgartensia
DOT	-	Dictionary of Old Testament
DONT	-	Department of Old and New Testament
KB	-	Koehler & Baumgartner
LXX	-	Septuagint (i.e. Greek Translation of the Old Testament)
MT	-	Masoretic Text
NIV	-	New International Version
NRSV	-	New Revised Standard Version
OT	-	Old Testament
QT	-	Qumran Text
RL	-	Receptor Language
RT	-	Received Text
SP	-	Samaritan Pentateuch
ST	-	Source Text
UBS	-	United Bible Societies

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CHAPTER ONE

INTRODUCTION

The central concern of this thesis is to examine the rights of the inheritance of land by women, as depicted in Numbers 27:1-11 and to show how this Biblical narrative addresses a problem which confronts people of the Niger Delta in Nigeria today.

1.1 PROBLEM

There is a cultural bias against the inheritance of land by women in the Niger Delta, and specifically among the Ogba and Ekpeye ethnic nationalities of Rivers State. Again these are predominantly Christian professing communities with more than a hundred years since the people of the area were exposed to the Bible. However, the Bible has not impacted on the cultural bias against women inheriting land. In other words, reading and interpreting the Bible over the past decades have not affected the way land inheritance matters have been handled among the people with respect to women.

1.2 HYPOTHESIS

A three-fold hypothesis is suggested for dealing with the present problem as follows:

1.2.1 An Exceptional Narrative

Despite the undeniable male bias in the Old Testament, there is an exceptional narrative in the Biblical text, which indicate that under certain circumstances, females were allowed to become owners and inheritors of land – such as the account concerning the daughters of Zelophehad in Numbers 27:1-11. This singular text challenges the Nigerian understanding of female inheritance, and can be used to address the problem.

1.2.2 Cultural Similarities

Interestingly, there exist cultural similarities between the ancient Israelite culture, and the Niger Delta communities in Nigeria particularly the Ogba and Ekpeye peoples. By comparing the two, a more profound understanding of the relevance of the Zelophehad narratives can be facilitated.

1.2.3 Responsible Interpretation

Using a functional equivalence approach, the text can be interpreted and translated in a responsible way, keeping in mind the need to create a better understanding and appreciation of the theological-ethical implications of the Zelophehad narratives for faith-communities in Nigeria.

1.3 METHODOLOGY

The choice of the text of the Zelophehad narratives was intended to highlight the relevance of an otherwise obscure Scripture portion to an analysis of a problem that calls for an attitudinal change towards the inheritance rights of women in the Niger Delta, and specifically among the Ogba and Ekpeye peoples of Nigeria. This is an example of a text in the Bible which challenges the customs of the people concerning female inheritance. In order to effectively harness the theological and ethical potentials of the Zelophehad narratives, three methodological procedures has to be followed:

- * Existing research on the subject will be utilized as part of a Literature study.
- * Empirical field work among members of my own community which was carried out by means of interviews, and the collection of a few published materials relevant to the subject will also be utilized.
- * There are cultural elements common to both the ancient Near East and Israelite societies on the one hand, and Niger Delta communities on the other which will be described.
- * A more responsible interpretation and translation of the text into Ogba will be attempted using the functional equivalence theory of Bible translation as a tool.

1.4 IMPORTANT CONCEPTS (DEFINITIONS)

A definition of concepts such as “culture”, “cultural relativism”, “functional equivalence approach”, “gerontocracy”, “hermeneutics” among others will be necessary for purposes of clarity, and are hereby given below:

“Culture” simply refers to a people's way of life as reflected in their values, institutions, symbols and social structure as an entity distinct from those of other ethnic groups (Deist 1990:62). Culture can also refer to human work “detached from the nexus of individual experience and action, consciously given shape as a construct, to be appropriated in the understanding, and then passed on to others. It can be reproduced in their experience and deeds and can be transformed by them, but it also forms them... We are creators of culture but also its creatures” (Bromiley 1999:746).

“Cultural Relativism” Deist has pointed out in his definition that “cultures differ to such an extent that it is illegitimate to transfer analytical anthropological categories from one to another, or to measure one culture by the standards of another, since each culture establishes its own social categories and norms of conduct” (Deist 1990:62). Thus a universal human culture is an anachronism. There are certain aspects of human culture that run across all societies such as marriage, procreation, inheritance, respect for elders, the quest for religious harmony, the crave for means of livelihood etc. In other words a comparison of certain features of culture can be done on a cross-cultural basis, whereas other aspects of culture can be contrasted such as language, technology, agricultural procedures, attitude towards gender, education and religious practices and beliefs.

A **“functional equivalence approach to Bible Translation”** involves making a dynamic sense or meaning of an original text which can then be conveyed to the receptor-audience in a clear, accurate and natural form (Nida & Taber 1974:28). Specifically, it discounts the form of the original as a possible hindrance to effectively and accurately communicating the original text's meaning in another language. According to the functional equivalence approach meaning is centered in the sense that it is essentially dealing with, i.e. the meaning of the original; while relegating the form of the message to a place of secondary importance (Smith 2000:24-25; de Blois 2001).

Gerontocracy - is the rule by elders. It is a form of social organization in which a group of old men or council of elders dominates or exercises control (Gove 1961:952). In the Nigerian context they carry with them the “sacred sceptres” supposedly handed down from the ancestors, and speak or act with the interest of both the living and the dead in mind (Amadi 1982:94-96).

“Hermeneutics” can simply be defined as the art of interpretation, that is, the rules and procedures for determining the sense of oral and written texts. Hermeneutics in this sense has to do with our basic presuppositions when interpreting the Bible. One such presupposition is that “sacred scripture embodies a truth that is inexhaustibly rich and supremely relevant to the present time” (Soulén 2001:73).

Patriarchal - refers to a system of rule in which men exercise control over women and children in all aspects of life including political, economic, social, sexual, and religious, and in which male interests override those of their female counterparts (McKim 1996:204).

Patriarchy - This in turn refers to a male authority system tending towards the oppression and subordination of women through social, political and economic institutions and practices (McKim 1996:204).

Patrilineal – This refers to family descent traced through the father and his ancestry. In other words, descent is traced through the paternal, instead of the maternal line.

Patrilocal - This refers to location that is centred around the residence of the husband’s family, instead of the wife’s.

1.5 EXISTING RESEARCH

1.5.1 The Book of Numbers

Numbers is the title given to the fourth book of the Pentateuch. The translators of the Septuagint (LXX) gave it the name “Numbers” apparently to reflect its two census lists Num 1 and 26 which according to Olson (1996) also divides the book into two unequal parts. Each respective part deals with what he describes as “the death of an old generation and the birth of a new”. The title “Numbers” was passed on through the Latin Vulgate to the European and present-day English versions (Lasor 1996:100).

With respect to content and outline Numbers is remarkable for its composite nature with JE and Priestly materials interspersing its narratives. A full discussion of the composite complexity has been given by Olson (1985) and its various strands in the redactive process has been dealt with by Levine (2000) and need not bother us here. Numbers is a

book replete with events which due to its composite nature are sometimes difficult to classify. Olson's two-fold grouping divides the book into two sections of unequal length: Section I: The death of the old generation (Num.1:1 – 25:19), and section II: the Birth of the new generation (26:1 – 36:13). This view is temporally-oriented and does not so much reflect the complexities in the book of Numbers (Martens 1997:985)

Scholars like Ashley (1993:2-3) prefer a tripartite division of the book closely related to geographic locale: Section I at Mount Sinai (1:1 -10:10); section II at and around Kadesh Barnea (10:11 – 19:22); and section III on the plains of Moab where the events of our narrative on the daughters of Zelophehad took place (20:1 – 36:13). Within the narratives Ashley traces the movement of the children of Israel from Sinai to Kadesh Barnea (10:11 - 12:13) and from Kadesh Barnea to the Plains of Moab (20:1 – 21:35) both of which spanned a period of more than thirty-eight years (Martens 1997:985).

The journey from Sinai to Kadesh Barnea by way of the Gulf of Aqaba would normally have taken only a few days (Dt.1:2). Instead, it took more than thirty-eight years due to the unbelief of the older generation which Yahweh promptly punished by denying them access to the Promised Land. Numbers more or less is a recital therefore of the acts of Yahweh. In it is set the Divine providence of Yahweh – His faithfulness, presence, provision and forbearance – set against Israel's unfaithfulness, rebellion, apostasy and frustration (Lasor 1996:99).

Numbers follows Leviticus, and like it contains the cultic regulations given at Sinai. Much of its regulations for both priests and people are similar to Exodus, Leviticus and Deuteronomy. (Ashley 1993:2-3).

1.5.2 Numbers 27:1-11

This section has been identified by many scholars as of a priestly material (Budd 1984:300). Budd (1984) cites for his example others like J. Wellhausen, A. Kuenen, H. Holzinger, B. Baentsch, and G.B. Gray. Interestingly, M. Noth (1980:210) hints that the priestly material in this pericope was of a later type. Noth has been followed in his view by others like J. Sturdy and J. de Vaux. Budd (1984) is satisfied that a consensus of scholarly opinion ascribes the materials in this section to the Priestly editor.

Closely associated with this pericope in Numbers (27:1-11), are parallel narratives like Numbers 36:1-12 and Joshua 17:2-6 which deal with the same inheritance issues of the daughters of Zelophehad. How is the second census important for understanding the plight of the daughters of Zelophehad for which they had to petition Moses? Why did the Priestly editor choose that context for the placement of the Zelophehad narrative?

The Priestly editor placed this pericope (Num.27:1-11) against the background of the second census (Num. 26:52-55) to highlight its importance for the subsequent partitioning of the Promise Land based on those listed by name. The Zelophehad daughters anticipated that they would be left out without a family inheritance and they took action to pre-empt that likelihood (Num. 27:1-5) (Levine 2000:341).

The request which the daughters of Zelophehad made in Numbers (27:1-11), was finally implemented with slight modifications, restricting the marriage options of the heiresses (36:1-12), in Joshua by a land allocation panel headed by Joshua the son of Nun, and Eleazar son of Aaron, the priest (Jos.17:3-6). Any detailed discussion of the fundamental inheritance issues raised in Numbers is reserved for the fifth chapter. Meanwhile, some observations on the section will be in order here.

This section presents a legal case about women inheriting land through a male line during exceptional cases when there is no male descendant to possess the inheritance. In these verses also we read about the initial ruling given on the case right at the entrance to the tent of meeting before Moses, Eleazar the priest, the leaders and the entire congregation of Israel. We are also given a family tree in vs.1 of the daughters of Zelophehad which is part of a second census list representing an entirely new generation, and which for that purpose repeats the clan structure of Manasseh outlined in 26:28-35 (Olson 1996:162-63).

The problem of inheritance which the daughters of Zelophehad were concerned with, was not covered in any of the existing law codes in the Torah. Their inheritance problem created an ambiguous legal situation requiring special revelation for its solution. As Ashley (1993:542) has observed, a matter of such importance would have formed part of the Torah in order to provide a general legislation for similar cases in future. What was the problem of the Zelophehad daughters?

The problem of these daughters that needed to be solved was of a legal nature (Num 27:3-4). Their father Zelophehad had died in the wilderness without any male heir to inherit his property. In view of this they request the right to inherit it. They claimed that their demand was necessitated by the desire to perpetuate the clan name of their father who died “for his own sin”. In other words Zelophehad had died not because of his part in the rebellion of Korah and his group whom the Lord swore would not inherit the land, but for the general sin of unfaithfulness which characterized the entire first generation, and therefore, like the rest of the younger generation his descendants deserved to be granted an inheritance (Budd 1984:301; Branch 2003:913).

Such a request, coming as it was from females, was without any precedent and Moses had to refer the matter to God (vs.5-11). God consents to the demand of the daughters and rules in vs.7 that Moses should indeed transfer the inheritance of Zelophehad to his daughters (Ashley 1993:542-43). The book of Numbers ends with the second generation still waiting on the plains of Moab where Moses died in order to enter the land of Canaan; and the leadership then passed on to Joshua the son of Nun (Ashley 1993:546; Olson 1996:163-164).

1.5.3 The Theology of Land in Numbers

The clearest expression of OT theology of land is Lev.25:23: “The land must not be sold permanently, because the land is mine and you are but aliens and my tenants”. Such a statement underscores not only Yahweh’s ownership of the land, but also his grace in giving land as a gift. The land is given to Israel, but it remains under God’s ownership (Wright 1983:57). Interestingly, there is no direct mention of this in Numbers, but its application to the wandering pilgrims is made explicit in Yahweh’s promise to give the land to the younger generation while denying access to it to the older generation (Num. 14:30-31).

In the **Covenant code** (Ex.21-24) the obedience of the pilgrims is the basic condition for a durable and fruitful life in the land. In the Covenant code, no direct mention is made of the land as an inheritance, though this meaning is implicit in the social and labour regulations replete in the code itself (Ex. 21:18-21; 22:5-6, 9-15; 23:10-12,31-33).

Similarly, the **Holiness code** (Lev.25) does not directly mention the gift of land to the Israelites. It takes that fact for granted. Instead it goes into detail as to how land is to be redeemed after it has been lost through alienation as a result of poverty, land sale or physical death. Such safeguards are given through social regulations such as the Sabbath-year (Lev.25:1-7) and Jubilee laws (Lev.25:8-13), in addition to the law of Levirate (Dt.25:5-10) which entitles a kinsman to redeem the lost or alienated estate of a deceased brother Israelite.

In the **Deuteronomic code** also an unusual reticence is maintained in respect of any land gift to the Israelites. However, land is mentioned as an inheritance denied to the Levites and Priests because of their special role in the priestly traditions of the sanctuary (see Dt.12:12; 14:28,29; 18:1-2). In the code the fact also is mentioned that remarriage of a spouse once divorced is a source of defilement for the land which Yahweh has given to His people as an inheritance.

Such an indirect reference to the land as a gift to Israel is encountered both in all the codes found in the Pentateuch. In Numbers however is conveyed the idea of the land as a promise to the patriarchs and their descendants, which Yahweh in His faithfulness, is obligated to keep (Dozeman 1998:18-19).

Dozeman (1998) also cites A. Alt, for instance, as identifying the land promise associated with the patriarchs, and like R. Clements and F. Cross before him, they saw the land promise as originating from an ancient Covenant in which the Deity promises the land of the Kenizzites, the Kenites and of the Kadmonites to His land hungry pilgrims – the Israelites – who were sojourners as all their ancestors were (Ps.39:12).

It is important to grasp the land promise as an important component of the concept of Yahweh's ownership of this specific land, as every one who receives land does so on a temporary basis as do all strangers and pilgrims (Lev.25:23; Ps.39:12; cf. 1 Chr.29:15; Heb.11:13; 1 Pet.2:11) (Janzen 1992:146-147).

Therefore, in order to understand ancient Israelite theology of land, one is required to begin with Yahweh who initiated the conquest of the land of Canaan, and promised to bestow it on the Israelites as an inheritance. There are three sides to Israelite theology of land some of which we have already alluded to earlier, namely, *Divine ownership, the*

conquest, and the *promised land*. We are going to elaborate on some of the concepts below.

1.5.3.1 Divine ownership

First of all, the concept of Divine ownership of the land is something that is deeply imbedded in the mindset of the Israelites (Wright 1990:58-64). Ultimately, ownership of all land belongs to Yahweh who then can be described as the Divine Landlord. The Israelites are tenants or temporary residents (Lev.25:23). Therefore, the land must be seen as a bequest of Yahweh, something that has to be inherited but which must not be grasped, sold, or alienated perpetually. As Von Rad has so aptly pointed out, the relationship of Yahweh to the land is one of ownership, as much as Israel's relationship to the land is one of tenantry (see Wright 1990: 5-13). Later when this concept of Divine ownership was being subverted by the land policies of the monarchy in Israel, the prophets stood up and decried Israel's oppressive and exploitative behaviour, while endorsing a return to the concept of Divine ownership and of egalitarianism (Wright 1990:119-173).

Evidently, such conceptions of land as belonging to the Deity are not unique to ancient Israel (Boecker 1976:91-92; Dybdahl 1981:71), but is indeed the basis on which land use and land ownership is defined (Boecker 1976:89). In ancient Israel in particular, Yahweh is the Divine owner of the land of Canaan, and He has granted it to Israel as a perpetual inheritance. In order to do this successfully, Yahweh had to bring Israel into a relationship based on a covenant and a set of laws.(McKeown 2003:490).

Consequently, Israel's inalienable right to the land of Canaan is posited on the fact that it was Yahweh Himself, being the Divine Warrior, who has granted that right to her. He alone had the right to choose which tribes were allotted specific areas. This fact is borne out by the allocation of land through lots which inadvertently suggests that Yahweh's hand was involved in the choice of who gets what. In other words, the lot was an instrument for recognizing Yahweh as the invisible hand who designed Israel's settlement patterns. It is also confirmatory of the land becoming Israel's inheritance (*nahalah*) – a concept we shall return to again subsequently.

Nelson has noted that the land in this sense was considered an act of land grant from Yahweh which was "passed down through the family as a central focus of group identity" (Nelson 1997:16). Let us consider how the three principles further the concept of Divine

ownership because it occupies a focal point in the theology of land, and social regulations like the law of Jubilee were given by Yahweh, who in declaring Divine ownership so aptly said, "For the land is mine" (Lev.25:23).

A corollary to this point is that Israelites were *receptants* of Yahweh's land, and that the land is given on a temporary basis. Israel's status on the land is depicted as being one of a custodian of that which originally was not theirs, but Yahweh's (Lev.25:23): "...with me you are but aliens and tenants". Thus rights to any portion of land is a grant from Yahweh to be received by humans as a gift (Dozeman 1998:217).

This brings us to another feature of ancient Israelite theology of land, namely, that land so inherited was *inalienable*. No portion of land may be disposed of or sold permanently by any one or group of persons thereby cutting off land from its original clan of ownership. It is a safeguard of land by means of a prohibition against permanent land sales (McKeown 2003:490). Such transactions, if allowed, would be tantamount to rejection or alienation of one's inheritance which ultimately would lead to apostasy (Budd 1984:xxv).

1.5.3.2 Models of Conquest

A second aspect of Israelite theology of land is that the land was acquired through military conquest with the help of Yahweh, the Divine Warrior. To fully grasp ancient Israelite theology of land, we have to appreciate the whole issue of conquest. There are at least four models proposed by scholars which invariably account for the settlement of Israel in the land of Canaan.

First, there is the conquest model which specifies forceful conquest of Canaanite tribes by the invading Israelites, through warfare, destruction of cities and the seizure of territories hitherto occupied by Canaanites. Woudstra (1981) believes there really was a physical conquest of Palestine. Alt and Martin Noth also took a middle course. They think that an initial attempt at a conquest literally failed, and so was followed instead by a peaceful penetration of Israelite tribes into Canaanite settlements.

A **second** model proposes that rather than through conquest, the settlement of Israel in Canaan was more by a peaceful penetration of the area. In this model, the Israelites simply intermingled with the native Canaanites and gradually began to assert themselves.

It has been the informed opinion of Alt and Noth, followed by, among others M.Weippert that rather than thinking in terms of conquest, it was preferable to think of a peaceful penetration in which land hungry nomadic Israelites moved into largely unoccupied areas perhaps with occasional skirmishes with established Canaanite city states (Curtis 1994:35-36).

On the one hand, Meredith Kline (1991) who adopts the conquest theory gives the geographical dimensions of the Promised Land and observes that Yahweh made a promise of land grant that went through stages of fulfillment. All indication point to the fact that Yahweh had a vested interest in the land of Canaan as a place in which His presence was to be manifested, first to Israel, and then to the nations of the earth. The land was to be set apart once it has been appropriated, and it became increasingly clear that the land, as “a royal land grant”, would be appropriated by force.

On the other hand, Kline (1991:204-208) also subscribes to a peaceful penetration model because of the lack of any mention of a forcible land acquisition in for instance the Writings (*Kethubim*). Instead, what we have is a process of dwelling in the land and multiplying thereupon as Israel obeyed the Lord. Basing her arguments on the evidences from Wisdom literature she makes a case for a peaceful penetration of the land. She insists that no hints of “a prophetic announcement that Abraham’s descendants would return from an Egyptian sojourn to take actual possession of a land originally occupied by Canaanites” at a time when the iniquity of the Amorites was complete can be found in the Wisdom corpus. It is difficult to believe that such a significant event as the forcible dispossession of the Canaanites would not be mentioned by sages and wisemen of their times (Aitken 1986:34).

Be that as it may, anyone who is familiar with the book of Judges which immediately followed the conquest narratives in Joshua would subscribe to the more moderate view that attempts at a total conquest failed, hence the invaders resorted to an infiltration of the land, which generated the kind of scenario we witness in the Judges accounts. There is no way one can subscribe to a conquest model without being confronted with the cases of Rahab and of the Gibeonites which loom large in the conquest narratives.

A **third** model describes the coming of Israel into Canaan as something not generated by an external upheaval, but by an internal one. According to N. Gottwald (1979:150-87)

Israelites were peasants and nomads who were disgusted with the upper class lifestyle of the Canaanites and who revolted against it, overthrew it and established a more egalitarian society. In the views of scholars like Dever, neither the conquest, nor the peaceful penetration theory can be sustained in the light of archaeological findings (Dever 2003:99-101).

A **fourth** model sees the settlement in Canaan as the result of an on-going evolutionary process which began long ago and finally resulted in the more settled and well established life of the people known as Israelites (Howard 1998:38).

Howard (1998:36-39) thinks that the conquest model fits more of the Biblical data than the other three, which according to him are impositions from disciplines alien to Biblical culture. On the other hand Dever subscribes to a peasant revolt model which in the light of archaeological excavations in the area is a more sustainable argument (Dever 2003:99). Two perspectives can be associated with the Biblical data on Israel's entry in the Promised Land, namely, a conquest method in Joshua, and a more peaceful method of entry in the book of Judges.

Perhaps we can chart a middle course in the whole argument. It can be pointed out for instance that Israel's so called conquest of Canaan and subsequent settlement does not necessarily mean total defeat and annihilation of the Canaanites. This fact has been alluded to earlier. There are abundant evidences to show that Canaanite aborigines still lived alongside the Israelites even up to the time of the united Monarchy. We might therefore agree with Howard that "an Israelite descended from Abraham entering Canaan from without and engaging and defeating various Canaanite forces, but without causing extensive material destruction is the most defensible and reasonable model" (Howard 1998:39-40).

1.5.3.3 Land of Promise

Also alluded to earlier is the concept of a land promise as a component of Divine ownership. That promise, perhaps, provided the motivation for the events of the exodus and wilderness journey. Yahweh promise a land gift to Abraham, Isaac and Jacob which would be enjoyed by their descendants (Dozeman 1998:18-19).

The land is given in fulfillment of that promise (Num.32:7,9,11; 11:12; 14:16). Like all gifts, land is not to be grasped but must be received with gratitude, and on Yahweh's terms or not at all. The nature of the land gift is grace, and this cannot be scuttled even by the flagrant disobedience of the older generation. In several ways the people fell short of the Divine requirements for entering and possessing the land, but in the end the Divine verdict is sustained and the promise of land is kept. We shall return to this point when we discuss the "*ahuzzah*" and "*nahalah*" aspects of the land grant in the second chapter.

Meanwhile it is interesting to note that Yahweh who is in a covenant relation with Israel, commands in Numbers the perpetuation of the terms of the covenant so that subsequent generations would know about the promise made to their forefathers and about the fulfillment during the occupation of Canaan. This must be done so that His chosen people would continue to trust and obey Him. In providing such a covenant document, God intended that Israelites should be impressed with how the Promised Land was conquered, apportioned and settled – all through Divine enablement.

In other words, Israel should realize that the covenant though spiritual in essence, has its own practical dimensions which became concretely manifested in the "here and now" of Israel's existence. As Woudstra (1981:18) has pointed out, such a temporal awareness was to point to a future of a much wider fulfillment of the covenant promise, the new heaven and the new earth (Ps.37:9; Mt.5:5).

To return to our narrative in Numbers it is interesting also to note that God promised the daughters of Zelophehad that they would receive a portion of the land even though their father had no sons (Num.27:1-11), and this promise was explicitly kept (Jos.17:3-6). At the end of the land distribution in Joshua we are given the most sweeping and dramatic illustration of the importance of Yahweh keeping His promises (Jos.21:43-45):

"So the LORD gave Israel all the land He had sworn to give to their forefathers, and they took possession of it and settled there. The LORD gave them rest on every side, just as He had sworn to their forefathers. Not one of their enemies withstood them. Not one of all the LORD's good promises to the house of Israel failed; everyone was fulfilled". There is no better affirmation of Yahweh as a covenant (Promise) keeping God than this (Howard 1998:351-2).

Thus, the word about the promised land concludes the entire treatise in both Numbers (Num.34 – 36) and Joshua (Jos.21:43-45).

1.6 INHERITANCE TRADITIONS

An inheritance is a property that transfers to an heir upon the demise of the owner (Wulf 2000:636).

Closely allied to inheritance traditions of ancient Israel are the Sabbath-year and Jubilee laws which forbid a perpetual alienation of inheritance. The tradition provides for redemption of land so alienated during each Sabbath or seven year period, or during the Jubilee or fiftieth year period. This tradition strongly undergirds the regulation that every Israelite was to return to his property on every seventh year at the least, and on every fiftieth year at the most (Lev.25:13).

A similar tradition occurs in Numbers in the Priestly material, but only in connection with the legislation in respect of the daughters of Zelophehad (Num.27:1-11;36:1-9). In the Deuteronomistic code the inheritance tradition is also closely linked to the law of Levirate marriage. Along with the law of inheritance, the Levirate marriage is intended to ensure that the name of an Israelite does not disappear from the family record unnecessarily. H.N.Snaith (1966:124-127,345-46) considers the Levirate law as reinforcing not a matriarchal, but a patriarchal value system generally (Budd 1984:388).

From the foregoing we observe that the inheritance traditions of ancient Israel were, like traditions elsewhere in the ancient Near East, basically patrilineal. The story of the daughters of Zelophehad seems to be an exception. It assumes an unusual significance because it is couched in the context of an ancient society with a prevalent patriarchy and an inheritance administration that is essentially patrilineal. That also points to a kinship structure with a patrilocal foundation.

In the Holiness code (e.g. Lev. 25) the inheritance tradition is not directly mentioned except in connection with the redemption of land (vs.23), and also in connection with the Levites (vs.32-34). In the Deuteronomistic code, inheritance is mentioned in connection with the Levirate marriage (Deut.25:5-10). The Priestly material in Numbers mentioned the inheritance only in connection with the daughters of Zelophehad. Why is this so?

Apparently, because this was not considered any problem until the case of the daughters was presented to the leaders, and Yahweh's views had to be sought (Num 27:1-11).

There is no clear evidence that the problem of inheritance which the daughters of Zelophehad presented, had been covered either in the Holiness code, or in the Deuteronomistic, and Wisdom perspectives. The narrative marks one of only four stories in which an ambiguous legal situation required a special revelation for its solution. Therefore, a discussion of inheritance traditions will have to proceed on a more general level.

The laws enacted as a result of the request of the daughters emphasize that inheritance in Israel was patrilineal, meaning that inheritance is passed through males through the father's side. Firstly, if a man dies without a son, his inheritance is passed on to his daughters (Num.27:8). Beyond that Israel's inheritance traditions were patrilineal. Secondly, if a man without son or daughter dies his inheritance passes on to his brother or brothers (vs.9). Thirdly, if there are no brothers, then the father's brothers would inherit (vs.10), and fourthly, if there were no uncles, then the nearest kinsman of his clan would inherit (vs.11a).

The above ruling is presented by the Priestly editor as of a Divine origin rivalled only by another statute concerning the cities of refuge. The ruling on inheritance and that of the cities of refuge are both judged to be a "statute and ordinance" (*lehuqqat mispat*) to show not only that they were authoritative, but also as in the case of the former that it was also aetiological. (Olson 1985:180; Clements 1998:218). In what follows I am giving a very terse discussion of the place of the inheritance in the **Covenant, Holiness** and the **Deuteronomic** codes, with a summary in which further elaboration is given.

1.6.1 Covenant Code (Ex.21 – 24)

One key component in the Covenant code is that the land as an inheritance must be territorially secured, so that the territorial integrity of each tribal, clan, kindred or household inheritance is never violated. There are some warnings against moving property or boundary markers in order to protect the land from greedy speculators (23:31).

1.6.2 The Holiness Code (Lev. 17 - 26)

Apparently, nothing is said of the inheritance of land in the Holiness code (Boecker 1976:186), except a mentioning of an overarching principle, namely, that a close connection exists between obedience to Yahweh, observance of His statutes and ordinances, and dwelling safely in the land of Canaan. He has bestowed it upon His people as a perpetual inheritance (Lev.25:18-19).

1.6.3 The Deuteronomic Code (Dt. 12 - 26)

The promised land motif is very prominent in the Deuteronomic Code. However, the promise here, as in the Holiness Code, is understood conditionally. Obedience to Yahweh and observance of His statutes and laws would eventually yield security and fulfillment in the land.

The Deuteronomic code has been influenced by the ANE culture of covenantal arrangements between states; in terms of this the gift of land is seen as a conditional grant carrying specific requirements of the vassal by the suzerain (Kline 1991). Whether any Canaanite influence can be associated with this is only a matter of conjecture. Nevertheless the Deuteronomic code shares the same condition of "obedience" with the Covenant and Holiness code as *the* prerequisite for ongoing survival and enlargement in the land. If the statutes and ordinances are observed the land will be possessed (Dt.6:17-19). Anything to the contrary will cause the land to spew out its inhabitants (Lev.18:28; 20:22) (McKeown 2003:490).

1.7 SUMMARY

In all three codes of the OT we find that references to inheritance concern land. Generally, the OT view on land is that it belongs to Yahweh and so can neither be sold, be given away in perpetuity, nor be grasped upon as an individual possession (Lev.25:23). Particular individuals or families obtain usufruct of the land by virtue of their membership of a larger kinship (or pseudo-kinship) community such as lineage, clan or tribe.

Again, this OT concept of Divine ownership as we pointed out earlier runs through all human culture. It is intended to remind humans and particularly the Israelites that their

tenure in the land is contingent upon loyalty and obedience to the Deity (Lev.20:22-26; Dt.30:19-20). Consequently, the actual inheritance that is passed from generation to generation is permission to live on the land and to exploit its resources within the parameters set by the laws in the Pentateuch, and even more so in Numbers.

Our understanding of the Zelophehad narratives can be linked to the sabbatical and Jubilee legislations, both of which were intended to prevent a perpetual alienation of tribes and families from their ancestral inheritances (cf. Lev.25:24-28; Num. 36:6-9; Dt.19:14; 27:17).

Such restrictions illustrate the extent to which the line of inheritance annotated in Numbers (27:8-11) reflected the tradition of a wider society in the ancient Near East.

The regulation in connection with inheritance is that a father's inheritance is to be given to sons or daughters, or brothers, or uncles, or male relatives within the clan. It does not look like a novel legislation, but one that adapts to a situation already envisaged by the Deuteronomistic historian.

As Budd (1984:300-301) has pointed out, however, the Deuteronomist seems to emphasize the heirship of sons, especially the rights of the first born son, without any mention of the daughters (Dt.21:15-17). Also envisaged by the Deuteronomist is the Levirate law which further reinforces male heirship. The latter provides that if a man dies without a son, his brother must take the widow as a wife, and the first son becomes heir to the estate of the deceased (Dt. 25:5-10).

This story of the daughters of Zelophehad with which Numbers concludes can perhaps be seen, not necessarily as prescriptive of a recognized inheritance tradition, but as the Priestly writer's description of the territories which originally has been assigned to Manasseh, west of the Jordan (cf. Jos.17:1-6). This view, however, is problematic because the same would still be true even if the narrator had used male instead of female heirs in describing the territories (Snaith 1966:126).

Others of course see the story as intended to replace the Levirate marriage enunciated for similar reasons in Deuteronomy (25:5-10) by filling in gaps created apparently by the death of both Zelophehad and his wife. Had his wife been alive, the daughters' request for their

own inheritance would have been superfluous, as their mother would, by virtue of Levirate marriage, have provided an heir to their father's inheritance.

However, the purpose of the Jubilee law which secured each tribal inheritance in the long run would not have been threatened the way the Manassites saw it (Num.36:1-12). It would not have been threatened because the land perpetually stays within the inheritance rights of each tribe as of necessity. Is it possible therefore to think of inheritance in gender-neutral terms? To answer this question will necessitate our consideration of the functional equivalence approach to translation later in the fifth chapter.

In conclusion, the inheritance traditions of Israel focuses on Yahweh as the owner of all lands and all humans being tenants on His land. In the OT generally and in the specific corpus outlined above, the condition for safely inhabiting the land is obedience to Yahweh, and compliance with His laws, statutes and ordinances.

1.8 STRUCTURE OF THESIS

In *chapter two* we shall bring into focus the views on land in both the ancient Near East and ancient Israel, and in the *third* a consideration of views on women in both cultures will be presented equally. This will, in the *fourth chapter*, facilitate a comparison with similar views on land and women in both South-East and the Niger Delta areas of Nigeria. In the *fifth chapter* an attempt will be made to interpret and translate the Zelophehad narrative text into Ogba in a more responsible way using a functional equivalence approach to Bible translation. In the *concluding chapter* we shall focus on the various elements in our discussion which have proven or disproved our hypothesis as the case may be.

CHAPTER TWO

VIEWS ON LAND IN THE ANCIENT NEAR EAST AND ISRAEL

2.1 INTRODUCTION

Land is used both for agricultural and residential purposes in both the Ancient Near East and Israel. While in the former conceptions of land is inextricably bound up with the traditional religions, in the latter case it is similarly centred around the Yahwistic religion. In most ancient societies sacrifices had to be offered at certain periods of the year as one way of acknowledging the fact that the land belonged to the Deity, and that the living held land in custody both for the ancestors and for the future generations.

In the case of ancient Israel this is a highly developed concept, whereby all land is seen as belonging to Yahweh and the people are mere stewards of land and temporary residents. Land is therefore not to be sold or alienated on a permanent basis, and every arrangement is made to guarantee that. On the other hand the ancient Near East differed slightly at that point because land could be sold and given out without scruples (Boecker 1976:18).

In this chapter our task is three-fold: to examine briefly the practices of land tenure in both the ancient Near East and ancient Israel, and then to focus on ancient Israel's land tenure regulations, particularly the concepts of *ahuzzah* and *nahalah*, and the role of the kinsman redeemer (*goel*) in the redemption and retention of the family inheritance (Dybdahl 1981:35-36). We shall also be looking at the whole question of succession and inheritance as well as the dowry in ancient times (Westbrook 1991:147).

2.2 LAND TENURE IN THE ANCIENT NEAR EAST

A brief mention of what constitutes the land tenure in the ancient Near East may suffice to show how it compares and contrasts with that of Israel. As part of the ancient Near East (ANE) both the Israelites and the Canaanites shared lots of cultural traits in common, such as e.g. kinship structures in which members of a tribe were regarded as descendants of a common ancestor (Curtis 1994:46). There seem to be some contrasts, however, when it comes to land tenure. Communal land tenure was practised in the ancient Near East, and

the tendency in both Egypt and Mesopotamia was towards a joint ownership of land (Dybdahl 1981:24).

In Egypt, for instance, the people owed allegiance to the gods for the land on which they dwelt and which they used to make their living. The same was true of the Babylonians whose religious practices became inextricably woven into their land tenure system.(Boecker 1976:18). Land ownership in the ancient Near East generally was both communal and private. In Egypt women were allowed to own land in principle but in practice there scarcely was any existing example of such a practice. The land was used in such a collective manner and for agrarian purposes that it made it difficult to distinguish between owners and non-owners (Halperin 1963:101 in Dybdahl 1981:25).

Features of joint ownership in the ancient Near East also included a common way of land cultivation, as well as of crops planted which had to be uniform. The same was also true of a time-table of operations. "There was therefore a common agricultural calendar followed by all peasants" (Dybdahl 1981:29). This extended from ploughing time to harvest time, and even to fallow periods.

One remarkable difference observable in the ancient Near East is a system whereby land holding was rotatory among the people, based on an annual redistribution of land to every land user (Dybdahl 1981:29-30). Moreover, as has been hinted at earlier, unlike in the O.T. land law, land renting and land sale was a feature of land tenure in the ANE, particularly among the Canaanites and to some extent among the Babylonians (Boecker 1976:88).

There are three basic concepts which governed land tenure practices in the ANE including Egypt and Mesopotamia, namely, 1) The society, or a segment of it, was the basic controlling group in relation to land. Rights to land was dependent not on individual merits but on social obligations such as marriage and maintaining a family. 2) Land so communally held could not be sold or given away by individuals – especially to those outside the kinship unit or group, and 3) a non-monetary periodic redistribution which took care of the changes in membership due to births, deaths, or other factors such as adoption or temporary residency (Dybdahl 1981:36).

This in a sense is similar to what obtained in ancient Israel as well, but as we shall subsequently see they had a more egalitarian approach to the retention and use of land. The basic land holding unit was the clan (*mishpahah*), and every individual had access to land on the basis of equality and accountability. For the rest of the discussion let us proceed to the next section.

2.3 LAND TENURE IN ANCIENT ISRAEL

Like their ANE counterparts ancient Israel practised a land tenure that was both communal and in some sense private or egalitarian. In this way everyone's right to land was inalienable and no one was above the law (Matthews 1988:134). As a *bona-fide* gift from Yahweh, the land was not to be sold or alienated on a permanent basis. That basic concept of land tenure remained intact until the inauguration of the era of the monarchy, when, as it were, a two-fold land tenure practice became the vogue in ancient Israel – one favoring the more egalitarian land tenure and the other adhering to an elitist land tenure system (Dybdahl 1981:35-36). The reasons for this can be seen from the discussion below.

One of the inevitable results of an incomplete conquest was the presence of Canaanites living on the land which Yahweh originally had intended for Israel alone (Hawk 1991:43). It is instructive, therefore, to note that tribal inheritances received either by conquest or lot presented an incomplete possession, distorted by the presence of aboriginal strongholds (Hawk 1991:21).

The strongholds made it difficult for the Israelites to completely take the land, and from time to time there was war between them. For instance Judah had the Jebusites occupying a central area in their allotment and they could not dislodge them (Jos.15:63). Ephraim had the Gezerites to contend with in the area they both occupied (Jos. 16:10), and Manasseh had a list of cities and the valley areas which they could not completely possess due to the Canaanites' superior military strength (Jos.17:11-13,16).

The effect of this was the practice of a dual land tenure system as has already been mentioned. For instance during the time of the united monarchy (1200 – 922 B.C.E see 1 Kgs. 4:6-17) it was clear that both Israelite and Canaanite land tenure customs were practised side by side (Westbrook 1991:23). Dybdahl for instance is convinced that

whereas Israelite tenure laws governed the rural communities, the kings preferred to use the Canaanite's more individualistic tenure customs through which they robbed the poor of vital landed assets (Dybdahl 1981:100-101; Matthews 1988:142-143).

The original land tenure of ancient Israel was based on three overarching principles, namely: 1) Land belonged to Yahweh; 2) Land was given to the twelve tribes of Israel as a lasting inheritance; and 3) Land so given was not allowed to be sold or alienated on a permanent basis, so that every individual Israelite's means of livelihood would not be impaired. (Wright 1989:57-58).

However, by the time of the first Temple period (1000 - 586 B.C.E.) the kings saw themselves more as Yahweh's viceregents than as ordinary citizens. In the matter of land ownership, some of them used the land to gratify their political and economic interests, to the detriment of their subjects and contrary to well known conventions (Matthews 1988:134-35), thus fulfilling Samuel's prophecy against a monarchical rule (1 Sam.8:14; 14:52).

Therefore, land in ancient Israel occupied a prominent place as an economic resource (Wright 1989:46). It was given to the twelve tribes by Yahweh who also prescribed how it had to be shared among them (Nelson 1997:28, 198; Butler 1983:171ff). The principles of conquest, lot and donation governed the distribution of land among the tribes and their respective clans, *mishpahot* (Dt. 32; Jos 13-19). In ancient Israel of the early period (1200 -1000 B.C.E.) the principle of inalienability of land was deeply ingrained in the land tenure practice, and land was distributed on an egalitarian basis, with permanent land sale considered a forbidden matter.

2.3.1 Kinship and Land Tenure

Thus we find in ancient Israel and indeed in most of the ANE world that land was closely connected to the kinship groups, and it is indeed at the point of kinship-group that land was actually shared and exploited (Blenkinsopp 1997:51-52).

To understand the laws governing land tenure in any society one must take into consideration the important issue of kinship structures and their relationships with the land

(Matthews 2003:292). The principle of land staying in the possession of original tribe of the allottees underlies all Israelite land tenure (Dybdahl 1981:5).

As will be shown in the account of Zelophehad's daughters, land meant for a man without sons could be granted to his daughters on the condition that they choose their husbands from among their near kinsmen (Branch 2003:913). It is only if there are no sons or daughters to whom the land inheritance could pass that the property can be given to relatives – still within the tribe (Milgrom 1990:231). The reason for this will become clearer as we discuss the underlying concepts of "*ahuzzah*" and "*nahalah*" both of which are associated with kinship inheritance rights.

2.3.1.1 *Ahuzzah* and *Nahalah*

The Hebrew concepts of "*ahuzzah*" and "*nahalah*" both refer to an inheritance of land jointly owned within the broader *mishpahah* or kindred (Dybdahl 1981:2). The difference lies in the fact that while "*ahuzzah*" refers more or less to land ownership on a more personal level, "*nahalah*" on the other hand, refers to land ownership on a kindred or even tribal level. "*Ahuzzah*" is the word for possession while "*nahalah*" is the Hebrew word for inheritance. A possession can be disposed of by the owner at will, but an inheritance can only be passed on to succeeding generations, and disposal is only on a temporary basis. An understanding of the different concepts "*ahuzzah*" and "*nahalah*" will help us to appreciate the social, and theological implications of land tenure practices in Israel. This is further elaborated below using the historical antecedents of granting land to the twelve tribes of Israel (Brueggemann 1977:xii).

Olson (1996:5-6) has pointed out that the two census accounts in Numbers (1 and 26) provide the historical antecedents for the granting of land to the twelve tribes of Israel. The first census was also directly linked to military objectives as Moses and the elders were to count those from twenty years and more who were fit to go to war. More closely related to land division and inheritance, however, is the second census (Ashley 1993:10-11). Understandably, a good head count was necessary as a basis for a fair and equitable land distribution. The reader would recall that the principle of "larger share to the bigger tribes, and lesser share to the smaller tribes" was commanded by Yahweh. In order for us to understand "*ahuzzah*" and "*nahalah*" we have to re-visit the issue of the basic land holding units to which individual land users belong.

The question being addressed here is whether or not inheritance is also synonymous with possession (Dybdahl 1981:2; Van der Merwe 2003:159). In other words, what a man or woman inherits, does s/he possess it in such a way as to be able to dispense with it according to personal whims, or are there rules governing the use of the possession? The answer to this question would determine how we view land tenure and inheritance, either as a personal possession (*ahuzzah*), or as a group inheritance (*nahalah*).

As has been mentioned before, the basic land holding unit in Israelite country was the *mishpahah*. This point was made by Dybdahl (1981:36) in his analysis of Joshua and Numbers. The household (*bet ab*) and later the individual at some point came to be associated with sharing the land for both domestic and agricultural purposes. Yet no one individual, not even the *paterfamilias* had the right to permanently alienate any land apportioned to him, because such apportioning was only temporary and depended on his membership of the *mishpahah*. Beside being the basic land holding unit, the *mishpahah* also served the purpose of a military service unit (Boecker 1976:51).

The daughters of Zelophehad received land at the level of the *bet ab*, as well as “in the midst of their father’s brothers” which will be equivalent to the *mishpahah*. They thereby automatically became component or constituent units of the *mishpahah*. Moreover, by sharing in the total land allotment to their tribe, they received an “inheritance” or *nahalah*. The land was theirs to use and pass on to succeeding generations, not one to be disposed of at will. The principle is one of inalienable right to land (Dybdahl 1981:15).

For instance, as it is true of every Israelite, the land would be considered both their inheritance as well as their possession. However, in the case of the daughters of Zelophehad, they could forfeit the inheritance if they married outside the tribe (Budd 1984:389). Therefore it was their possession “*ahuzzah*” but in a less complete sense. Secondly, and in the case of Israel as a whole, they had to remain loyal and obedient to their covenant with Yahweh for the land, which already is their inheritance “*nahalah*”, to become their “*ahuzzah*” possession, in a fuller and more complete sense (McKeown 2003:489). If the Israelites became disloyal and consistently rebellious against the covenant (as they often proved to be), then they lost their “*ahuzzah*”. They lost the “*ahuzzah*” but certainly not the “*nahalah*”.

Thus the word *nahalah* as used in the Hebrew is associated with what the women as well as the men received from both Moses and Joshua (Num.27:7; 36:2-4; Jos.17:4). Moreover, both terms are used interchangeably in the other land grant narratives such as those involving the tribes of Reuben, Gad and the half-tribe of Manasseh, including those of individuals like Caleb and Joshua which sometimes point at it as “*nahalah*” and at other times as “*ahuzzah*” (Num.32:5,22,29; Jos.22:4,9), (Num.35:8; Jos.21:41), (Jos.21:3). Dybdahl’s observation that both terms could in fact mean the same thing is noteworthy (Dybdahl 1981:65).

With respect to the daughters of Zelophehad, Dybdahl rules out the application of “*ahuzzah*” as a possible meaning in preference to “*nahalah*”. We have shown however the distinction between them in order to point out the principle of inalienability which undergirded Yahweh’s granting of land generally, and such a distinction is necessary in understanding why the daughters of Zelophehad had to stay married within their father’s “*mishpahah*” (Branch 2003:913). It is significant to note that there is an acknowledgement of the rights of the daughters to receive an inheritance of land as possession, provided they married their cousins.

Moreover, the mention of “among the brethren” in Joshua (17:5,6) means “among the tribes west of Jordan”. The same passage could also have meant that the daughters received a “*nahalah*” along with their fellow Manasseh tribesmen. The emphasis need not therefore be on where their inheritance was located but rather on the fact that women who receive a share of the land must by virtue of that privilege remain married within their tribes so that land inherited in this manner remains within the original tribes. This message is clearly borne out when the passages in Numbers (27, 36) and Joshua (17) are clearly understood (Dybdahl 1981:127).

Although land is owned at the level of the tribe, it was the clan or *mishpahah* that constituted the basic land distribution unit, in which heads of the *bet ab* participated in the sharing and utilization of land for both agricultural and residential purposes. In the following discussion the role of the *mishpahah* in land distribution, land use and protection of individual rights to land is further highlighted. The significance of such a role becomes even clearer as the role of the kinsman-redeemer is brought into focus later, in the subsection following the next.

2.3.1.2 Family and Land

In ancient Israel, the land was an inalienable piece of property entrusted to individual families to be utilized as a means of both economic and social survival (Westbrook 1991:11-12). Individuals owned land as they took their share from the distribution made to them from Yahweh, first to their tribes, their clans, their father's houses, and finally to them as individual nuclear families (Dybdahl 1981:35-36).

The land was worked at the individual level, and users were required to bring back to Yahweh offerings from the harvest as tokens of appreciation for the gift of land, and this was received by the priests (McKeown 2003:490). This was signified by an annual cycle of new moon and feast days which in turn were meant to give a vivid expression of due allegiance to Yahweh, the actual Land-Lord. The Biblical law of property was more concerned with protecting the rights of the family, with land as their main source for economic survival, not only against outsiders but even against individual members of the family itself (Westbrook 1991:38).

Like all other human communities, the Israelite's concept of land tenure is closely tied to their theology of land (Wright 1990:10). To understand it, one must grapple with the intricacies of the special rules developed in what has been described as "biblical law" (Westbrook 1991:46). Those rules were intended to uphold the link between property and the family, and to tailor the ownership of property so as to ensure the perpetuation of the family (Maarsingh 1987:121-22).

Generally, the inheritance of land by women had no legal precedence even until the time of Moses. Hence the request of Zelophehad's daughters was seen as of a supplementary sort placed at the end of Numbers by the Priestly redactors (Ashley 1993:540-41). Nevertheless, that example by the daughters of Zelophehad is appropriate in so far as it highlights the problem with which an average family or kindred as an economic unit can be confronted with, and in so far as it points out what would henceforth constitute the normal pattern of inheritance of family property (Nelson 1997:9).

The *mishpahah* in ancient Israel consisted of several households, their respective heads being brothers, belonging to the same clan. The clan is a more abstract kinship category

and consists of several kindreds linked together with the connecting factor being a common, long dead, ancestor (Westbrook 1991:20).

The function of the clan has been outlined as being four-fold. **Firstly**, is the sharing of the sacrificial meal. This is considered a religious duty important enough for every adult person to participate in, even at the cost of state duties (1 Sam.20:29). **Secondly**, the clan functions as the body responsible for enforcing the rights of revenge (2 Sam.14:7). In Israel, as in most traditional communities the penalty for homicide was vengeance by a relative of the victim known as the “redeemer of blood”. The avenger in such a case acted as the representative of the clan or *mishpahah* (Maarsingh 1987:119; Wright 1990:48-49).

A **third** function of the *mishpahah* is “to redeem family land sold to outsiders or family members sold into slavery” (see Lev.25:48). In the story of Ruth for instance we see Boaz taking up the responsibility of the kinsman-redeemer of Elimelech’s lost estate on behalf of the clan. **Lastly**, but not least, the *mishpahah* served as the outer limit beyond which inheritance cannot pass (Wright 1990:57).

2.3.1.3 The Kinsman-Redeemer (Goel)

The practice of widow inheritance was intended to raise an heir to a brother’s inheritance if he had been married and died without having a son to inherit his property. Then his brother remarried his widow in order to raise an heir, so that the name of the dead be not lost with his inheritance. The practice was first mooted in Genesis 38 where Judah attempted on two occasions to marry off Tamar to late Er’s younger brothers, both of which failed to produce the desired result. It was Tamar herself who took the initiative and ended up bearing a child for her father in law – Judah.

Later two regulations for the perpetuation of a brother’s name through an heir was given in both Leviticus (25:48-50) and Numbers (27:8-11) the former applying to the kinsman redeemer, and the latter to land. For both the same order was basically to be maintained as son, (daughter), brother, uncle, cousin, nearest kinsman or relative.

A particular piece of property may be legally redeemed by a kinsman on behalf of an insolvent relative who had sold or alienated it (Westbrook 1991:40ff). However, the redeemer may choose to either return it to its original owner, or perhaps, use it himself

until the year of Jubilee. The real position is not clear from Westbrook's argument (Westbrook 1991:58-68).

He cited three instances of land redemption by a kinsman redeemer, namely, Yahweh's redemption of Israel from the house of bondage (Ex.6); Boaz's redemption of the lost estate of Elimelech, Chilion and Maylon, husband and sons of Naomi respectively (Ruth 4), and Jeremiah's part in the redemption of the field at Anathoth, his hometown on the initiative of his cousin Hanamel (Jer. 36:6-15). We shall attempt only a brief discussion of each of this in what follows.

The basic law of redemption in Leviticus (25:25-26) states:

"If one of your kinsmen becomes poor and sells some of his property, his nearest kinsman is to come and redeem it for him and if he prospers and acquires sufficient means to redeem it, he is to determine the value for the years since he sold it and refund the balance to the man to whom he sold it; he can then go back to his own property."

2.3.1.4 Inheritance

The basic assumption that God owns all land runs across all cultures, and in Israel the God who owns not only the land of Canaan, but the whole earth is Yahweh (Lev.25:23). A corollary to this is that the average person in ancient Israel saw land as a gift of Yahweh which must not be grasped but received with gratitude (Brueggemann 1977:10-11).

With that in mind, the land as an inheritance must be passed on to successive generations according to a patrilineal line of descent / inheritance. The tribe constituted the outer limit beyond which the inheritance could not go (Wright 1989:46; Milgrom 1990:230).

This means that an order of succession for the use and transfer of inheritance must be followed within the *mishpahah* as follows: son, daughter, brother, uncle, nearest kinsman, and, in the case of more traditional communities, the kindred group. It is important to note that the tribe was never considered responsible for an inheritance, except in the case of the Zelophehad daughters where the *mishpahah* and the tribe were contiguous (Budd 1984:302; Olson 1996:164).

The tribe later became the wider grouping beyond the *mishpahah*, or at least an extended version of the *mishpahah*. This is the impression one gets from ancient Israel's early history. Besides serving as a unit of direct descent from the tribal ancestor, the tribe also provided security and defence when it was time to go to war. When it comes to war against the Canaanites it was the tribes that were summoned, not the *mishpahah* (Num.31:4-5).

Land allocation was made by lot casting at tribal levels, and then shared at the level of the *mishpahah*. Thus the head of the *mishpahah* received the land as a co-heir with other brothers on behalf of the eponymous ancestor (Westbrook 1991:23). Obversely, this was how the allotment to the daughters of Zelophehad came to be legitimized, and in the event of a war they had to contribute to the defence of the territory as a whole. This obligation could only be met if they were married.

The importance of keeping or retaining family inheritance within the father's house (*bet ab*) or at least within the kindred, is for the purpose of passing it on to subsequent generations as well as for buying it back in the case of loss through sale or alienation. The daughters of Zelophehad were free to receive inheritance as part of the father's house (*bet ab*), but that meant that they could only be married to their cousins within the *bet ab* as has been pointed out. Even in such a supplementary regulation the importance of the *bet ab* as the basic unit for perpetuating the inheritance could not be overlooked.

2.3.1.4.1 Women and Property Inheritance

At this point it is pertinent to point out that whether as *nahalah* or *ahuzzah*, the property rights of women is bound to strike one as being of prime importance as one reads these narratives (Evans 2003:904). As Olson pointed out there seems to be a paradoxical situation in the case of the daughters of Zelophehad where "a norm which prohibits the inheritance of property by women and a norm which mandates the preservation of property within the lineage are in conflict and are resolved in these narratives" (Olson 1985:97). The resolution that a man's daughters could inherit his property in the event of there being no male heir was given the status of a "lasting ordinance" and was aptly observed even in the stressful days of the monarchy in Israel (Brueggeman 1977:10-11).

2.3.1.4.2 A Perpetual Inheritance

Yahweh's overarching purpose for Israel is that what they have, they should hold perpetually and the tribe, the clan, the *mispahah* and the *bet ab* were each to safeguard the interest of relatives who alienated family inheritance as a result of poverty, disaster or death (Wright 1990:141). *It is better for a female relative to receive part of the inheritance and be married within the kindred than for inheritance to pass out of the kindred or clan into another kindred, clan or tribe either through neglect or impoverishment* (cp.Boecker 1976:120-21).

This was how the daughters of Zelophehad not only received an inheritance in their own right as citizens, but also had to stick with endogamy in order to ensure its perpetuation. If as Westbrook (1991:61) has suggested the redeemer retained the right of ownership until, perhaps, the year of Jubilee then the aim of redemption has been defeated, because the one who through neglect or poverty lost his land has not been benefitted by the near-kinsman.

Instead, on redemption of the land, it was to go to the original owner whose allegiance to the benefactor or redeemer is then elicited. However, in the case where the original owner is dead or incapacitated the kinsman-redeemer is then obliged to retain the inheritance and perhaps through levirate marriage produce a rightful heir (Westbrook 1991: 68-71).

This was applied to the case of Boaz and Ruth. In the case of the Zelophehad daughters, the sons or daughters were to take care of the inheritance according to the established order of succession. The allegiance which is owed to a benefactor might be obligatory, but definitely not compulsory such as an allegiance which a slave owed to his master. The idea of redemption by a kinsman-redeemer was based on an egalitarian principle which precludes all modern day ideas of master-servant relationships and speaks more of persons having a common heritage as brothers and sisters of one family (Westbrook 1991:61).

This point is further underscored by the Jubilee laws which in the strictest sense applied not to persons or property held by close relatives, but to ones held in foreign hands (Lev.25). Close relatives were to protect each others' interests and so preserve the common inheritance. Even when foreigners could occasionally be considered part of a kinship-group by adoption, or by friendship, their interests were to be at par with, but not

take priority over the interest of the kinship-group members (Wright 1990:181). We shall later turn our attention to a prophetic critique of land tenure and inheritance practices (Dybdahl 1981:130-131).

2.3.2 Land Sale

An outright sale of land outside the family or clan was considered unusual in Israel. (Matthews 1988:135). There was an occasion when a land sale transaction involving Jeremiah the prophet was recorded in the canon (Jer.32:7-9). However, this particular transaction, as the following discussion will make clear, was symptomatic of a future hope that Israelites would once again be restored to their land after undergoing the arduous Babylonian captivity. The transaction was more or less reflective of a Jubilee tradition during which everyone would be restored to his inheritance. There is no evidence that Israel ever celebrated the Jubilee except for the hints to this in Jeremiah, which we will presently discuss.

Let us begin by looking at the Hebrew word "*qnh*" usually translated "buy". By the use of this word it would appear that Israel's land tenure system had changed, but that is not the case here. Dybdahl observes that it is not to be understood that Israel's tenure system changed by the time of Jeremiah, but that the principle of the Jubilee was being applied in the case of Jeremiah and the land he buys from Hanamel his cousin (Jer.32:7-9). Hanamel sees Jeremiah's role in the purchase of the field as one of a kinsman-redeemer, thus referring back to Leviticus (25:25). "It is this Lev.25 law tradition which uses "*qnh*" in the sense of lease as it relates to land transactions" (Dybdahl 1981:134).

It all pointed to the fact that the land belonged to Yahweh and therefore should not be relinquished by any tribe through sale or alienation. During each Sabbatical year in the short run or the Jubilee year in the long run the land, if alienated, must be recovered. Wright (1989:90-91) gives three reasons why this was significant. First, it reflected Yahweh's intention not to abandon His people, but redeem them eventually. Second, the historical people (Israel) were part of His redemptive purpose, not its final perfected product. Therefore, and thirdly, they should not conceive of God's future world-wide "multinational" redeemed people without the land.

Given such an eschatological focus, the prohibition of a permanent land sale was pointing to Israel's territorial integrity which also suggested that at no point should an Israelite be rendered permanently landless. Neither the king nor the palace officials should be considered above the law. Land laws which prohibit permanent land loss through sale or other forms of alienation must be upheld by all (Matthews 1988:136). Thus the Jubilee and Sabbath legislations inherently portrayed a temporal aspect of landedness which ultimately symbolizes a future eschatological purpose (Brueggemann 1977:3).

It is in this sense that Jeremiah's buying of land became a type of Israel being restored to her former relation to Yahweh, at a time when land buying and selling such as that outlined in Lev.25 would again take place (Dybdahl 1981:134). In that single transaction we see a merger of two kinds of land tenure systems – one urban and closely linked to Canaanite practice of land tenure, and the other rural or communal and closely linked to the practice of land tenure in ancient Israel's early settlement period. The latter was reinforced by the role of kinsman-redeemer which Jeremiah assumed here (Jer.32:7-9), while the former shows that the land was actually paid for, that is, sold.

Inherent in Jeremiah's role is the concern to maintain a just and an egalitarian society. Such a concern was embodied in ancient Israel's life and socio-economic institutions. Israel was to be a "light to the nations" and so its cultural context of principles of justice, humanness, equality, and responsibility was to serve as a model for all peoples in subsequent cultural contexts (Wright 1990:174ff).

In the opinion of Blenkinsopp (1977:54-55) and Bird (1992:953) a just and egalitarian society must take care of daughters of families where there are no surviving sons to inherit the family property (Num.27:1-11). It must also cater for the widows through the Levirate marriage and of aliens through an equitable share in the family patrimony (Dt. 25:5-7).

Apparently, the communal land tenure system was tenacious enough to be used in land transactions in urban areas, including cities like Jerusalem, the capital. It is doubtful, however, if the same can be said of the period of the divided monarchy (922 – 722 B.C.E.) which was characterized by dual land tenure practice – the Canaanite and the Israelite – in the urban and rural areas respectively (Dybdahl 1981: 163, 172). Generally, however, ancient Israel shared a lot in common with the ANE when it comes to land tenure customs. Four basic elements common to them were the ones suggested below:

- a Steward centered Tenure System;
- a Communalistic Land Tenure System.
- a Use and Share Land Tenure System, and
- a Direct Personal Involvement Land Tenure System. (Dybdahl 1981:172)

Dybdahl's opinion is helpful in understanding ancient Israelite land tenure in relation to the prevailing ideologies of today's post-modern world. Perpetual land sale is an anachronism among the ancient Israelites, and it was considered something forbidden for anyone to give up the inheritance of his fathers (1 Kings 21). The case of Ahab, Jezebel and Naboth remains a classical illustration of Yahweh's wrath against the violation of the principle of the inalienability of land.

2.3.3 A Prophetic Critique

In order to appreciate the egalitarian principle which governed Israel's settlement on the land, we take a quick survey of prophetic references to this period at a time when Israel was deviating from the known land tenure principle and had imbibed the tenure principle of neighbouring nations, and this was done to the chagrin of both Yahweh and the Latter Prophets (Dybdahl 1891:134; Brueggemann 1977:108).

Isaiah for instance addressed a situation in which the underprivileged classes like the fatherless, the widow and the poor were oppressed and taken advantage of by those in authority (cf. Isa.1:23; 3:14-15; 5:8; 10:1-2). Those oracles vehemently denounced those who "added house to house and field to field until there is no room in the land" for others.

The poorer, peasant classes of people were simply shut out of their heritage and excluded from available means of livelihood (Wright 1990:181). The situation was such that both houses and fields could be sold in a manner that deviated from well-known conventions. It threatened the very fabric that held the society together. The implication was that the richer and / or more powerful classes could buy or acquire land for themselves, and land was no longer considered an inalienable heritage .

Isaiah was not alone in his critical utterances. Another prophet like Micah also criticized the arrogance of both kings, princes and judges in the land. Micah criticized them

because they took care of their own inheritances, but did not care about what happened to their less privileged neighbours. The Lord's response would be to treat the oppressors in the same way they had treated their less privileged neighbours (Mic.2:1-5).

Micah was convinced that there was a new era approaching when the land grabbers would miss the assembly of Israel where new standards of measurement would be applied. This provided an eschatological relief for those who were aggrieved by the actions of more powerful neighbours. A judgement of the Lord will redress all injustices and inequalities in the land. Judgement will favour the oppressed and deprived, but will certainly be to the detriment of the present land grabbers. So the Prophets' messages went out to an exasperated audience, interfaced with as it were a glimmer of eschatological hope of a new era when all loss of land would be restored.

2.4 DOWRY AS A SUBSTITUTE

This is the final point intended for discussion in this chapter, and its relevance can be seen when the land grant to the daughters of Zelophehad is examined from the perspective of marriage. One of the reasons why women are not granted land as inheritance is because land is immovable and cannot accompany a woman to her husband's place. As a substitute for land which she cannot receive the dowry is given by her father, mother and brothers as "properties" which she derived from the family inheritance. What is meant by dowry? By dowry we mean the gift items bestowed on a bride to mark her going into the new family of the husband.

2.4.1 Dowry in Ancient Near East

There were times when Mesopotamian communities included land gifts as part of dowry. Texts at Ugarit, which the Mishnah mentions, confirm this practice, particularly among the well-to-do families. However, Westbrook (1991:89) has pointed out that land dowry comes in for consideration in some family quarters only after a marriage has produced issue(s). "Slaves" could be given as dowry from the consummation of a marriage, but land could only be given as dowry, and this only rarely, when the couple have got issues (i.e. offspring). This according to Westbrook is part of Mesopotamian marriage law. Such a land gift forms part of the husband's estate which at his death is divided so that the surviving widow can live on the land as on her own personal estate. After her death the

land devolved upon the children of her own body, and if she had none, it presumably becomes her brothers' estate.

In the ANE, kings took the issue of granting land as dowry to their deserving princesses seriously. The Egyptian monarch in 1 Kings(9:16) granted a piece of territory adjacent to Solomon's Kingdom to his daughter as dowry, by simply sacking the native occupants of the area, and naming it after his daughter. This was the Canaanite city of Gezer. It is possible, as Westbrook observed, that Assyrian monarchs practiced the same endowment in the early second millenium when on one occasion land was given as dowry by king Shamshi-ardu of Assyria (Westbrook 1991:149). This practice seemed to be a royal prerogative and so does not necessarily apply to the people in general.

2.4.2 Dowry and Divorce in Ancient Israel

There is no evidence in ancient Israel that daughters who got married were accompanied with land as dowry. Not only was land reserved for male inheritance but also has the difficulty of transfer, as it could not follow the bride to her new home (Westbrook 1991:147). The example of the daughters of Zelophehad should sound very familiar by now. They received their father's allotment of the land, and were by that token to marry their cousins – the sons of their uncles – in order to keep the land both geographically and legally within the confines of the kindred or *mishpahah* (Westbrook 1991:148).

In all of these narratives the most common donor of land as dowry was the bride's father. Sometimes the husband provided the finest land to a wife who had given him many children (cf. Jer.3:19). Nowhere in Scripture is the problem of giving land as dowry addressed. Suffice it to say that the rights of wives over the dowry bestowed on them was always potential. In actuality it became the husband's property. This suggests that the land was her dowry, even though it was the husband who received and exploited it (Westbrook 1991:153).

Once again the distinction between "*ahuzzah*" and "*nahalah*" comes into play as we consider the dowry. Although a woman sometimes received land as dowry, she did not retain control over it as she did other dowry items like clothes, jewelry, silver and gold. The latter were her own "*ahuzzah*" whereas land belonged in the category of "*nahalah*" – something she does not own alone but along with her husband and children, and which

was passed on to them at death in a way in which her personal effects could in a sense not be passed on.

A nagging question would be this: what happens if a marriage suffered a divorce? Whose inheritance would the dowry be? The simple answer would be that the dowry belongs to the woman to whom it was given if she received it from or through her father and that otherwise it went to the husband if he was the one who gave it.

The matter can be more complicated than that. When we look closely at the legal systems of the ANE we find two kinds of divorce, namely, *divorce with grounds* and *divorce without grounds*. If a man divorces his wife and cannot show any valid reason for doing so, or simply on the ground of personal animosity or hatred, then the law prescribes that the divorced woman is entitled to all of her dowry as she leaves his house. In the event where the dowry included land, she then takes the land along. She may then decide to bequeath the land to her own sons if she already has children.

However, where the divorce was prompted by an obvious lapse on the wife's part, then she leaves her dowry (especially the land) behind for her children, if she already has them and for her former husband, whose fault it was not. In the latter case only immoral conduct could give the husband such rights of terminating the marriage and retaining the dowry.

The law (Dt.24:1-4) prohibits the restoration of a marriage that has ended in divorce, and was intended to avoid acts of hypocrisy and unjust enrichment through the dowry. According to Deuteronomy, there are three different ways of ending a marriage: 1) by divorce, where the husband finds an 'unseemly thing' in his wife; 2) by divorce where the husband hates his wife, and 3) by the death of the husband. In a case where the first marriage ended by method 1, the second by method 2 or 3 the result is widowhood.

With respect to the dowry, a husband who divorced his wife on good grounds, not out of hate, invariably kept the dowry. However, he was not permitted to change his mind after the divorced woman has remarried and been divorced or widowed as a result of her second husband's death, and has by virtue of the improper divorce or sudden demise of her second husband acquired valuable dowries, in which case the first husband's change of heart could be attributed to her newly acquired property. Thus the dowry is part of the

consideration behind the restrictions imposed on such complicated marital circumstances in the Deuteronomic law.

2.5 CONCLUSION

In this chapter we have given in a nutshell various views related to land in both the ancient Near East and ancient Israel. We also discussed the land tenure of the ancient Near East and that of ancient Israel with a view to illustrating how the former tended to impact on the latter especially during the pre-monarchical era. In discussing the critical utterances of prophets such as Micah and Isaiah, we explained the nostalgia which they felt in exhorting the people to return to the tenure system practised during the early settlement period which had a tint of egalitarianism.

We showed the important role which the dowry played in the marriage estate, and how rarely land was given as dowry except in some exceptional cases in which wealth and privilege influenced the gift. In all, we tried to point out the uniqueness of the inheritance rights of the daughters of Zelophehad, as it shines out as exceptional and innovative. **First**, its exceptional feature consists in the fact that it now offered women a significant place in the line of inheritance within both the *bet ab* and *mishpahah* (Bird 1992:953). **Second**, its innovative nature could be seen in its aetiological value, explaining the origin of inheritance rights of women (Curtis 1994:66; Nelson 1997:10). Such a narrative might have been needed in ancient Israel because of its relevance to the perpetuation of an inheritance through either an heir or heiress without the anxiety which those having no males might otherwise experience.

These are points that will be further pursued in the fifth chapter with special reference to the daughters of Zelophehad. Suffice it to say that theirs was a special land grant, but it actually underscored the yearnings and aspiration of women with respect to inheritance rights.

CHAPTER THREE

VIEWS ON WOMEN IN THE ANCIENT NEAR EAST AND ISRAEL

3.1 INTRODUCTION

Most of the evidence from available literary material tend to point to a more or less subsidiary or complimentary role played by women in the religious and social life of Israel in particular, and in the world of the Old Testament in general (Henshaw 2000:1385). There also seems to be abundant evidence showing that Mesopotamian culture, such as was known among Sumerians, Assyrians and Babylonians, were essentially patriarchal in both structure and orientation (Harris 1992:947). In Egypt a similar situation existed, with no independent religious or social status accorded to the feminine gender. Women were generally defined, with few exceptions, either as the daughter of her father, or as the wife of her husband.

In this chapter our goal is to illustrate the relative importance of women in various Ancient Near Eastern (ANE) and ancient Israelite cultures in which they fulfilled crucial religious and social roles. Most of the issues raised in our discussion below will reflect an essentially patriarchal and patrilineal culture. At times, various ANE cultures impacted on one another, resulting in friction which in turn impacted on women. Generally, however, women had their places in society and were highly esteemed in the home and family. They still however had to fulfill their roles as daughters and wives alongside men in order to earn that recognition and to be protected (Bird 1992:952).

3.2 WOMEN'S STATUS IN VARIOUS ANCIENT NEAR EASTERN CULTURES

For the purposes of our discussion we shall lump together Mesopotamia, Egypt and Israel as belonging to the ANE, and as we shall see later, the cultures of these ancient communities mutually influenced one another.

In each culture we shall look at the religious and social position of women in the light of laws governing or related to land and other property inheritance. Later we shall highlight - in the case of ancient Israel - certain inheritance laws prescribed for the protection of inheritance rights of the *bet ab* to retain ownership of land on a perpetual basis. Such laws

included the Jubilee, the Sabbatical and Levirate laws. It might be necessary to consider in passing the conflict of cultures as generated by land tenure laws on both sides and the sociological impact this might have had on the religious and social position of women.

3.2.1 Egypt

The cultural history of Egypt goes back to antiquity in the sense that Egypt is of pre-historic origin (Van der Merwe 2003:14). Yet it has a well-documented history, particularly from the beginning of the early bronze period when its power swayed all across the Ancient Near East, extending as far as the valleys of both the Tigris and Euphrates Rivers (Van der Merwe 2003:20). The rule of Egypt by the Pharaohs left an indelible mark not only on early Egyptian civilization, but also on the civilization of the ANE. It is historically ironic that Egypt never really conquered the world of the day, yet its influence in almost every aspect of human activity has been overwhelming.

In theory, Egypt's inheritance laws with respect to women were essentially similar to those of other Semitic cultures of the Ancient Near East. In these cultures women were never directly referred to except as daughters of their fathers or wives of their husbands. However, there was at least one known occasion when a woman deputized for the incumbent Pharaoh in his absence. During such deputizations, a woman temporarily assumed the royal duties of a Pharaoh, but this was more an exception than the rule (Boecker 1976:22,25; Van der Merwe 2003:15).

Women of royal blood were also privileged to receive land as dowries during marriage (1 Kgs 9:16). Because land is immovable, the services of local helpers were employed to work the land and despatch the produce to the new family wherever they were located. The princess whom Solomon married was given Gezer on the edge of Israel's borders as a dowry, and the villages in this area were sacked and the land developed for the queen (1 Kgs 9:16-17).

3.2.1.1 Social Status of Women

There is no direct mention of women in the inheritance laws of Egypt, or in those of Rome and Greece, where women were never involved. Egypt's inheritance laws portrayed an essentially patriarchal and patrilineal character. Yet they were not dissimilar to the

inheritance laws observed in the Old Testament (OT), especially on the concept of primogeniture.

Egyptian inheritance laws emphasize the priority of the first-born son who had to share his father's heritage with his brothers on an unequal basis. What stands out clearly is that only sons could inherit under normal circumstances, and the eldest son received his own share as well as the shares of all his brothers who were yet unmarried and unable to support themselves (Harris 1992:949). The understanding was that he would keep their inheritance in custody until they were old enough, and that he would arrange for them to get married so that he could pass their inheritance on to them.

It was also the responsibility of the oldest son to care for his unmarried sisters, and to provide them with suitable dowries when they married and went to their husbands' dwellings. It was also his responsibility to provide for the aged women who invariably might have been his father's wives and who, as widows, were dependent on the family inheritance in order to survive. Boecker (1976:118-119) very aptly explains this law of primogeniture when stating "that it was incumbent on the eldest son to provide for his mother and the unmarried female members of the family" (Boecker 1976:118-119).

This principle of primogeniture was applied both in monogamous and polygamous relationships, except in cases where the first-born forfeited his rights due to insubordination to or rebellion against his parents, particularly his father, and the latter had publicly renounced his primogeniture. In Egypt, as in most Ancient Near Eastern cultures, women rarely acted as individuals outside the context of their families. Those who did, as in Egyptian royal family circles, did so as part of a privileged group (Harris 1992:948).

3.2.1.2 The Religious Position of Women

Egypt was a land of a multiplicity of deities until Pharaoh Akhnaton (1361 -1340 BCE) introduced monotheistic religious devotion to the sun god "Ra" (Morenz:1973:275; Van der Merwe 2003:17). It was a short-lived change, because upon his demise his priests reverted back to polytheism. However, the consciousness of a Supreme Deity ruling over lesser divinities had taken root in the religious mind-set of the Egyptians by the end of the Late Bronze Age, ca. 1550 -1200 BCE (Morenz 1973:274-275).

Women were still seen rather than heard in religious meetings, which were held at the domestic level. Only the Pharaohs and their court participated in national religious assemblies during which “priests” mediated between the gods and the rulers, enabling the latter to fulfill their cultural and juridical roles in society. Sometimes a man and his wife both became “priests” and so enjoyed a very high status in the community. On only a few occasions did the wife alone become a “priest” (Howard 1998:46-47).

Egyptian esteem for “priests” extended to all aspects of cultural life, including land inheritance. In Genesis (47:22) the priests and their inheritance were immune from forceful acquisition by the state, and they were protected even more at a personal level. In addition, the elite section of the priesthood seems to have received direct maintenance from the Pharaohs at the time when the Hyksos ruled in Egypt - a time which marked the transition from the middle to the Late Bronze Age, ca.1550 – 1200 BCE (Howard 1998:47).

On one occasion a Pharaoh provided land as dowry to his daughter on her marriage to king Solomon of Israel. Such practices were commonly associated with the nobles and kings in Egypt. It was, however, a practice beyond the reach of the ordinary Egyptian, and so could not be considered the norm, as it fostered the interests of the nobility rather than that of the commoners (Ashley 1993:542).

In order to maintain social cohesion and moral integrity, Egyptian princes and princesses often engaged in endogamous conjugal relationships so that the royal line could be sustained and propagated (Boecker 1976:118ff). Men and women occasionally enjoyed equal partnership in social and religious functions. Men, however, were more conspicuous in public affairs, while women were preoccupied with reproductive functions such as raising children and domestic functions such as caring for the home (Meyers 1988:140). Together men and women shared economic or agricultural functions during most seasons of the year (Dybdahl 1981:29).

3.2.2 Mesopotamia

Let us for a moment examine the famous code of Hammurabi known to have come from Babylon. Within the ANE this ancient code influenced social and moral conduct, and provided a backdrop to land laws in other parts of the ANE, including Israel, centuries later. In what follows we shall highlight specific aspects of the code of Hammurabi with a

view to comparing it to Israel's land laws. We will also show how this impacted on the cultural significance of women in the ANE, and Israel in particular.

3.2.2.1 The Code of Hammurabi

According to the code of Hammurabi, issued during the reign of Hammurabi as king of Babylon (ca. ? 2060–40 BCE), only sons were entitled to inherit their father's wealth; daughters received no direct inheritance (Harris 1992:947). The rationale was that daughters belonged to another family once they got married, whereas sons stayed on their father's estate and the family property was maintained through the sons. Daughters, as we have seen in the previous chapter, were given good dowries at marriage to compensate for the inheritance they did not receive. However, in a case where a daughter decided not to get married, she retained her right to be provided for by her own family (Boecker 1976:118-119).

3.2.2.2 The Social and Religious Position of Women

Remarkably enough, the old Babylonian period was characterized by a variety of special classes of women. There was the well-documented institution of the Nadites, who were unmarried virgins. Even when they married, they were prevented from having children except through surrogate mothers. Moreover, the Nadites were mainly daughters of tribal leaders and were constrained by endogamy and rank, so that they often found it difficult to get a suitable spouse. The concern of these leading families was how to maintain the integrity of the paternal estate (Harris 1992:949).

Generally, in the ANE women were regarded positively when they gave advice and supported men in achieving their goals (Harris 1992:951). Women in the ANE thus indirectly fulfilled roles which impacted positively on society's religious and social circles. Nevertheless, in most parts of the ANE both the lineage and the inheritance were patriarchal. In the religious sphere, women who were unmarried remained loyal to the gods of their ancestors, and when married they had to transfer that loyalty to the gods of their husbands (Matthews 2003:293).

3.2.3 Women's Status in Ancient Israel

The social and religious influence of women in a male-dominated society such as ancient Israel is difficult to discern. Yet, as we shall see, the world of the Old Testament (OT), which to all intents and purposes appeared to be a male-dominated society, was far from being anti-women (Wright 1990:198). It was essentially male-originated and male-focused. Meyers (1988:78) expresses the view that women's role in the OT were disguised under the male-dominated culture and male-skewed inheritance laws of ancient Israel. Women were relegated to the background and had to perpetuate their role in subordination to their male counterparts. As some would say, women in ancient Israel were no more than the "property" of men with respect to their sexuality, and at best men's adjuncts with respect to their social status (Harris 1992:947). It is to the social status of women that we now turn.

3.2.3.1 The Social Status of Women

A close look at the cultural impact of patriarchy on women generally reveals the social role they fulfilled in ancient Israel. Women played significant and essential roles in the record of ancient Israel and were some of the best-known actors in the Biblical story, though subordinated to men (Bird 1992:951). In other words, women were seen as fulfilling very significant roles in the social life of various communities, even though such roles might have been assigned to them by their male counterparts.

There is abundant evidence, even in such an undeniably patriarchal world, that certain individual women were recognized and seen as having a significant role in the history of the nation of Israel, and that women as a whole were seen as an integral part of society (Evans 2003:898).

The writer of Numbers is careful to point out that women spoke out in a lucid and persuasive way on issues confronting them, such as is exemplified by Zelophehad's daughters (Sakenfeld 2000:221). The whole narrative revealed that as the new generation were about to enter into the Promised Land, women were not to be deprived of their rightful inheritance within the community. Of course, women who insisted on sharing in the inheritance rights to land in particular had to stay married within their father's ancestral clan. While still unmarried they were to be cared for by their brothers in the event of the

demise of their parents. This means that their rights as women, like all human rights, were significant and had to be respected (Evans 2003:902ff).

3.2.3.1.1 Women in the *Bet ab*

Against this broad social background stands a formula used in the book of Numbers to highlight the significance of the coming of a new generation. Olson describes it as the “*toledot*” formula which, while in discontinuity with the past, is also in continuity with it. Space does not permit a detailed discussion of the “*toledot*” or “generations” or “genealogy”, but it is a formula which is seen reflected in the internal structure of the book of Numbers, as graphically pointed out by Olson (Olson 1985:5). The fact that the names of the daughters of Zelophehad appeared in the “*toledot*” list of the tribe of Manasseh (Num.26:29-34) shows the importance of women in the inheritance laws which would later be given as a guide to subsequent generations with respect to women's interest in the *bet-ab* (Ashley 1993:536).

The two-fold grouping of the book of Numbers by Olson (1985:5) has been criticized as negligent of the complexities of the book (Martens 1997:985). Instead, a tripartite grouping is proposed, one which is closely related to the geographical location of events recorded in the book (Ashley 1993:2-3). This point was alluded to in our introductory discussion on Numbers in the first chapter above. Suffice it to say that the two censuses conducted by Moses (Num.1 and 26) were intended to serve specific but inter-related purposes, namely, numbering the men of war and determining the size of each tribe as potential inheritors of land (Milgrom 1990:xv).

In the first census we have a list of the tribes and their numerical strength, but the second census goes a little further to give a list of the tribes as well as their sub-clans (Budd 1984:389). In the tribe of Manasseh, Gilead was a clan and Hephher was a kindred clan of which the five daughters – Mahlah, Noah, Hoglah, Milcah and Tirzah – formed the household members and through their marriages they grew into separate *bet abot*. The social organization of the *bet ab* was simple enough to allow women full participation in both social and religious life as equal partners with their male counterparts (Wright 1990:104; Westbrook 1991:11).

Another example of women's role in the *bet ab* can be seen in 2 Kings 8:1-6, where it is suggested that women held property. In the above text, Elisha told a woman - a widow with a son who was still a minor - to leave the country because of an impending seven-year famine. She left with her family and when she returned at the end of the period, she found her piece of land in the hands of someone else. In order to regain her land she appealed to the king who ordered that her land be restored along with all the produce which accrued from it during the years when she had been absent. The Deuteronomist editor was careful to preserve the statement that she came with her now grown son to make this special appeal. She represented a land-holding unit of the *bet ab* (Boecker 1976:51).

Women sometimes became heads of the *bet-ab* when the male head had abdicated that role through long absence or death, though such headship by women was considered an aberration, and was corrected as soon as a male heir could be found (Wright 1990:219).

3.2.3.1.2 Women outside of the Home

As members of the *bet ab* women utilized land for agricultural purposes along with their male counterparts, and together they promoted the economic wellbeing of the *bet ab*. Thus, outside of the home women were engaged in productive endeavours as much as their male partners (Meyers 1997:18-19).

All of the land grant narratives portrayed this social equality. Nelson (1997:202) uses the term "land grant narratives" to describe the inheritances given to certain individuals, each of which followed an identical pattern involving a confrontation that established the setting and the characters, followed by would-be grantees who presented their cases and made requests for land. As a result of such request, the land was granted and finally a summary of the resolution was given (Howard 1998:327). The inheritance of Caleb (Jos.14:6-15), Achsah (15:18-19), daughters of Zelophehad (17:3-6), Joseph (17:14-18) and the Levites (21:1-3) all followed that same pattern.

This same standard was used and the same process followed in the land grant narratives, irrespective of whether the land was granted to males or to females (Budd 1984:389). The usual order was to grant land to men which they utilized in association with women as members of the *bet ab*. For this reason scholars consider the land grant to women as

being of a supplementary nature (Budd 1984:389; Nelson 1997: 201-202), not in the sense that they were insignificant or abnormal, but in the sense that it belongs to a category of its own. Land was granted using one of three overriding principles: conquest, lot and special need. It could be argued that the land grant to women in our pericope could belong to the last category.

As Boecker (1976:88-89) has observed, the practice of leaving the land fallow was also practised in other, non-Israelite, cultures. Besides the cultic reason that the land needed rest, there was also the agricultural reason that it gave a better yield and increased in fertility (Dybdahl 1981:19). Moreover, by leaving the land fallow, the Israelite farmer acknowledged that he / she held the land in trust for Yahweh, the real owner. Yahweh cares not only for humans, but also for wild animals who depend on good foliage on land for their continued survival and increase (Boecker 1976:89).

3.2.3.2 The Religious Position of Women

We cannot separate the social position of women in Israel from their religious position; nor can we separate the religious position of women from the religious purposes of the nation as a whole (Henshaw 2000:1386). As mentioned in the last chapter, Yahweh is the sole spiritual Head of Israel. Linked to that is the fact that the OT portrayal of the Deity is one of covenant-keeping obligations. Israel's God – Yahweh – is a covenant-keeping God, both responsible for and capable of keeping promises (Brueggemann 1977:58).

The ancient Israelites believed that they stood in a covenant relationship to Yahweh and then to one another. This idea was deeply ingrained in the religious life of ancient Israel and embraced everyone – man, woman, child and stranger (Evans 2003:897-99). Consequently, when things went wrong, the reason given was that the covenant had been breached and needed to be repaired before Yahweh could restore His people individually and collectively (Henshaw 2000:1385-86). Practices forbidden to both men and women included sorcery, witchcraft, necromancy, dream interpretation, and so forth (Dt.18:10-11; 2 Kgs.21:6; Jer.27:9; Lev.19:26).

3.2.3.2.1 Nurturers of Covenant Loyalty In Familial Instruction

In the book of Numbers the religious concept of the Covenant was worked out through social regulations and priestly instructions (Num.31:15ff). There is no doubt that women, in keeping with the tenets of covenant obligation, provided instruction for their children alongside their male counterparts (Perdue 1997:172-3). Women, along with the men, played a great role in nurturing the younger generation towards loyalty and commitment to Yahweh's legal and moral requirements (Jer.7:18; Ezek.8:14 -15).

Inheriting the land and Yahweh's guarantee of a lasting and fruitful inheritance (Brueggemann 1977:108) depended exclusively on how well-informed the younger generation were in the words of Yahweh (Ashley 1993:ix). Israel strongly demonstrated that the conquest of the land could not be by might or power but by "my Spirit, says the Lord" (Zec.4:6).

In Joshua, too, the concept of the covenant relationship was worked out through the conquest of the land. For instance, it is written in Joshua (21:43,45) that "the Lord gave to Israel all the land which He swore to give to their fathers...Not one of all the good promises that the Lord had made to the house of Israel failed; all came to pass" (Lasor 1996:152). Land is a fundamental element in the religious character of the Covenant. The continued obedience of Israel to the commandments of Yahweh would cause the land to be fruitful, fertile and prosperous. Henshaw (2000:1385-86) argues that women worked side by side with men, even when it came to the sad days of apostasy and idolatry (Jer.7:18; Ezek.8:14-15).

Consequently, women also suffered when idolatry became widespread and the land ceased to support its inhabitants, so that other nations gained the upper hand (Brueggemann 1977:73-76). The exilic experiences of ancient Israel never exempted women. It is as a result of Yahweh's judgement that other nations were allowed to drive the Israelites out of the land. Yahweh would, however, as part of the Covenant, restore them back when - in the land of their captivity - they turned and sought His face (Brueggemann 1977:90-91).

Israel faced exile on more than one occasion ever since these laws were laid down, and this promise of restoration always held out to them Yahweh's hand of victory and hope

(Lasor 1996:152). As was mentioned in the previous chapter, the “*nahalah*” remained Israel’s Covenant right from Yahweh, but the “*ahuzzah*”, which is linked to Covenant loyalty, sometimes eluded both men and women because they failed to adhere strictly to the tenets of the Covenant. Some even adopted repugnant Canaanite rites like child sacrifice, that is, causing their children to go through the fire as an offering to Molech, the god of the Sidonians. Such deviations from Covenant loyalty simply exacerbated their misery (Henshaw 2000:1385-1386).

3.2.3.2.2 Women and the Sacrificial Meal / Offerings

Besides instructing the children in their homes, women also ate the sacrificial meal (Dt.12:12; 14:26) along with the rest of the members of the *bet ab* (Evans 2003:900). Their involvement with the Covenant meal was as important as their commitment to the instructional development of their children. In both ways women served as reminders to the younger generation of the tenets of the Covenant which Yahweh had established with Israel. The responsibility which this entailed for women was of an enormous magnitude within the faith community (Bird 1992:951).

In Jeremiah (7:17-18; 44:15-19) women were accused of providing the sacrificial meal not for Yahweh the true God of Israel, but for the Queen of heaven. According to Meyers (1988:160) both men and women came under criticism for their role in divination, sorcery, witchcraft, necromancy, and dream interpretation (Dt.18:10-11; 2 Kgs.21:6; Lev.19:26,31).

Conversely, women also accompanied their male counterparts in religious ceremonies in order to acknowledge Yahweh’s ownership of the land, and they therefore brought their own part of the offerings to the priests (Bird 1992:955; Harris 1992:949).

Yahweh, who makes the land fruitful, held both men and women responsible for fulfilling these important religious duties (Wright 1983:85-86). Individual women who received the land and worked it along with their male counterparts were to show appreciation to the One who made the land fruitful. They usually did so through free will, votive and sacrificial meal offerings (Henshaw 2000:1385-1386). Women were never excluded from this whole process of religious taking and giving (Dt.14:28ff; 20:12ff).

3.3 A CONFLICT OF CULTURES

Similar to what obtained in Mesopotamia, Egypt and other Ancient Near Eastern communities, Israelite inheritance laws were incomprehensive in the sense that they made no direct mention of women's inheritance rights (Milgrom 1990:482). However, there was a measure of flexibility built into the laws so as to allow for the economic self-support of women (Wright 1983:147), an example of which would be the Levirate laws (Dt.25:5-8).

There were also ways in which the laws in ancient Israel were affected by the inheritance laws of the Canaanites (Dybdahl 1981:163,172). The influence which Canaanite inheritance practices had on the Israelites' inheritance customs could be seen as predicated on incomplete conquest, and the inevitable condition of living together in the same geographical areas (Curtis 1994:35-36).

Scholars have pointed out the incomplete nature of Joshua's conquest of Canaan (Boecker 1976:118; Olson 1985:43; Howard 1998:56-67). The same scholars have also pointed out the strong hand of redactors in the conquest narratives contained in the book of Joshua. We can see the intention of the Deuteronomist in showing Joshua's compliance with Yahweh's directives, and how such a compliance with the Divine directives became automatically synonymous with the dispossession of the Canaanites. However, the same scholars have also observed that the so-called dispossession of the Canaanites was an incomplete event, especially with the examples of Rahab and the Gibeonites looming large in the narrative (Jos.2,9-10) (Olson 1985:43; Boecker 1976:88-89).

Consequently, the formation of the new nation of ancient Israel meant the emergence of two parallel cultures, the one elitist and Canaanite, and the other egalitarian and Israelite; the one in more urbanized areas, and the other in the rural sector (Milgrom 1990:xxxv). The book of Judges shows the extent to which these conflicts escalated from time to time, and in the song of Deborah (Judg. 5) the ancient Israelites' persistence in dealing with these conflicts is reflected (Nelson 1997:4-5).

The constant ideological war between ancient Israel and her pagan neighbours also impacted on women. An example of this can be found in the Baal fertility cults on the

Plains of Moab, during which Midianite women mingled freely with the Israelite soldiers. The result was calamitous: a devastating plague (Num 25:1-9). An avenging attack against the Midianites (Num 25:16-19; 31:1-14) resulted in the latter's total annihilation, except for virgin girls in Midian who were spared specifically on the orders of Moses, and later adopted into the conquering Israelites' families, and who became their captive wives (Milgrom 1990:xxxvi).

In this era of conquest, and perhaps even up to the monarchy - especially with the expansion of the Kingdom during David's reign - a considerable amount of land belonging to the Canaanites became an integral part of Israelite states. It is not unlikely, as we have said earlier, that the political status of those Canaanite states changed, but that their laws never did. Not only were Canaanite laws applied; they were extended, even to the rural areas of Israelite tribes.

The Israelite understanding of the laws regarding land underwent a paradigm shift, particularly with the expansion of the Kingdom during the early monarchy. This could be seen many years later when Ahab and Jezebel forcibly seized Naboth's land which was adjacent to theirs. Apparently, Naboth protested in the name of the Lord that he would only give up the inheritance of his fathers over his dead body. In order to seize the land from him, Jezebel, who was of Phoenician origin, accused Naboth of blasphemy and had him stoned to death in Jezreel. It took a prophet of Elijah's calibre to bring the king and his household to book for such acts of gross brutality and covetousness (1 Kgs 21).

The egalitarian land tenure laws and the subordinate status of women known in ancient Israel came into conflict with the more aristocratic land tenure laws of the neighbouring ANE communities. Jezebel, though a woman, was a princess and a queen and as such she made a stand on her husband's status and took sides with the aristocratic land tenure laws of other ANE communities. She interpreted Naboth's action as rebellion and blasphemy against the king based on the Israelite egalitarian land laws – an interpretation which resonated with the elitist concepts of kingship in the ANE, rather than the ancient Israelite concept of equal responsibility and accountability before Yahweh, the true King of Israel (Harris 2000:950).

There is abundant evidence that women's place in society was never diminished as a result of their subordination to their male counterparts. Instead, they worked alongside

their male counterparts in the achievement of the social and economic goals of the family and society. Ancient Israel with her overwhelming patriarchal and patrilineal social order was more or less a family-centered economy, and women were at the hub of that economy. Though cast into a background of anonymity and perhaps dependence, women's role in the society was clearly marked, and there were safeguards in the social order intended to protect them from oppression, repression and dispossession.

3.3.1 The Safeguard Provided by Closer Relatives

Three of such safeguards against a perpetual impoverishment of Israelite families included the Sabbatical, the Jubilee and the Levirate laws – the latter impacting directly on women. The Sabbatical year (Ex.23:10-13) was observed each 7th year and was characterized by the release of all slaves and dependent persons from a state of servitude, so that they could return to their own inheritances with ample supplies from the storehouses of their masters and mistresses (Boecker 1976:138). It also witnessed the restoration of those so released to their ancestral inheritances which for reasons of poverty or insolvency they had alienated, sold or lost (Dybdahl 1981:70-71).

The Jubilee (Lev 25) on its part was celebrated every 50th year and was also a year of release of all slaves and dependent persons so that they could return to their inheritances with ample supplies of goods and provisions from the storehouses of their masters and mistresses (Ashley 1993:543). The Jubilee was also the year of *yobel*, that is of the release of all Israelites from all debts by those to whom such debts were owed.

The Levirate (Dt.25:5-10), on the other hand, was the marriage of a deceased brother's widow to a kinsman in order to raise offspring in the name of the deceased so that his heritage could be perpetuated, and his name not lost from the family records (Ashley 1993:544; Dybdahl 1981:91-94; Boecker 1976:120-121). An interesting point to note is that the Levirate and Jubilee in themselves were dysfunctional unless activated by closer male relatives either within the *bet ab* or the *mishpahah* (Branch 2003:914), or within both, who showed enough interest in the fulfillment of social obligations. It is also one of the reasons why the communal ownership of land was advantageous for present and future generations.

In cases where property had been lost due to poverty and insolvency, the affected family had no other choice than to go into servitude in the case of men, and slavery or even prostitution in the case of females (Harris 2000:949). In order to avoid this unsavory situation, the Sabbatical provision was made so that the egalitarian principle would be restored regularly and no one Israelite would get richer and richer at the expense of others (Perdue 1997:203).

3.3.2 The Levirate Law

In the case where property was individually owned, a man who died leaving no property of his own would have his widow disinherited as well. To raise children in his name would be considered illogical since there would be no inheritance to give to those children. In such cases a widow was free to remarry anyone else she liked outside of the *bet-ab*, or even outside of the *mishpahah* (Boecker 1976:120-121). This point will be further elaborated on as we consider the law of Levirate marriage.

The Levirate law was based on the concept of common inheritance of brothers within the *mishpahah* (Gen.38:8ff). It considered a widow who deserted her husband's family to marry into another family as a declaration that the brothers were 'unsandalled' (Ruth 4:7-8). That meant they were irresponsible and unfit to carry on their brother's heritage (Matthews 1988:24-26). That surely was to besmirch the family name, the last thing a Semite would tolerate (Num 27:4).

The principle behind this practice was the belief that land once redeemed by a kinsman (*goel*) was subject to the rights of closer relatives. If a man died leaving a son, that son grew up and reclaimed what belonged to his father. He did so with the active cooperation of close relatives who either held it by right of redemption, or who were in custody of it. That, in essence, was the reason that all land was held in trust for both present and future generations by all the living members of a group of kinsmen (Wright 1983:48ff).

The important thing was that the land remained in the family. In most traditional societies, land inevitably returned to the original owner or his descendants once it came into the family circle. It was also desirable, but not obligatory, that close relatives who prospered should ensure that no part of the family patrimony was alienated, sold or mortgaged due to reasons of death, disaster or poverty (Boecker 1976:121). Inherent in the spirit of these

laws was the consideration for the wellbeing of women as they fulfilled their roles of procreation and nurturing within the family (Meyers 1988:149).

3.4 CONCLUSION

In this chapter we have shown the significance of both the religious and social roles of women, even in a predominantly male-dominated society. We pointed out the far-reaching impact of the role of women as responsible members of the faith-community. Some have described such roles as being complimentary to that played by men, but as Biblical laws prescribed, women were not to be subjected to inhumane treatment, in the same way that men, widows, orphans and even strangers were not to.

The OT laws apparently protected the rights of women more than laws found in Mesopotamia, Egypt or anywhere else in the Ancient Near East. It is noteworthy that women even became heads of the *bet ab* when the absence of a male figure made it inevitable.

In order to show the social significance of women in OT times we drew extensively from both the Levirate and Jubilee laws. We illustrated the inviolability of the family estate to such an extent that estates could be ascribed to women when the absence of a male figure made it inevitable. Women's entitlement as unmarried daughters or as widows to the support of the *bet ab* were aptly endorsed in the OT regulations.

Moreover, inheritances were to be passed on to daughters when there were no sons to take it up. All this demonstrates the social and religious significance of women in society, though it is also significant that women fulfilled roles which complimented that of their male counterparts.

It was also pointed out that the cultures of Israel and that of the neighbouring Canaanites were sometimes intermingled, and the adverse influence which this had on the inheritance laws as well as the status of women were highlighted. Moreover, women exercised their rights to the inheritance by demanding what was theirs in partnership with their husbands, or in partnership with their sons. The widow who was asked by Elisha to proceed into self-exile because of an impending famine later returned and had her property restored to her

by no less a figure than the king himself. Evidently, women were given more rights in ancient Israel than in the rest of the ANE.

In the fourth chapter the inheritance practices as it applies to other cultures in Africa, and particularly in Nigeria (South-east and Niger Delta regions) will be highlighted. This will involve a discussion of the contemporary situation in Nigeria, before a functional equivalence translation of the Zelophehad narratives is attempted.

CHAPTER FOUR

INHERITANCE RIGHTS OF WOMEN IN PARTS OF SOUTH-EAST NIGERIA AND THE NIGER DELTA

4.1 INTRODUCTION

While examining various views on both land and women in the previous chapters we saw that ancient Israelite laws on inheritance were more inclusive of women than laws in other parts of the Ancient Near East (ANE) (Westbrook 1991:11-12). It was clearly understood within the context of the ANE that women generally fulfilled their roles alongside their male counterparts as daughters of their fathers, or as wives of their husbands (Harris 2000:947).

African inheritance laws, like inheritance laws in most of the ANE, were also not explicit in matters such as the inheritance rights of women. Nevertheless, certain laws which protected the rights of women in the countries of the Bible had parallels in African cultures (Ukpong 2001:11-28). These included the Levirate and the provisions made for widows which enabled them to share in the use of land until their “minor” sons reached the age where they could receive their share of the family patrimony.

There exists such an undeniable parallel between African cultures and lifestyle and the “customs and manners” of ancient Israel (see Matthews 1988:24-25), that many are tempted to think of culture in an African context as resonating more with ANE cultures than with culture as it is understood today in post-modern Western societies (Bosman 2002:360).

In this chapter our main focus will be on inheritance in Africa south of the Sahara, particularly as it applies to females in Nigeria. We shall begin with a discussion of the traditional system of land holding, and will then proceed to examine the relationship between this system and the socio-economic status of women. The relevant information will be illustrated with empirical evidence from the Niger Delta communities of Nigeria in comparison with their counterparts in other parts of the country.

Our methodology will employ the use of available data collected from the field, as well as a few written materials dealing with subjects related to the area in focus. In this respect the author's field observations will be immensely helpful in areas where available written and oral materials may be lacking in content.

4.2 TRADITIONAL SYSTEM OF LAND HOLDING

We pointed out in chapter two that the system of land tenure where the soil is used mainly for agricultural purposes, is usually controlled by the larger kinship unit (Westbrook 1991:11). This is true of ancient Israelite society as well as of the area under review. The implication of such communal ownership is that the right of the constituent members within the kinship unit to the land is inalienable – it cannot be bought or sold permanently (McKeown 2003:490). This was the point we raised while discussing Israelite village land tenure and it very much applies to many communities in Africa, including the one this author comes from. Land use is vested in the kinship unit as a whole and no one individual has any rights to dispose of it at will (Ayandele 1966:69).

As Dybdahl (2001:11-12) observed, "land was not a commodity which could be passed down from one to another but was ultimately and irrevocably tied up with a person's social position and kinship relations". Also applicable to sub-Saharan Africa is the fact that land use was based on distribution among constituent members within the kinship unit on a non-monetary basis. Moreover, changes in the constituent parts due to the birth and death of new members meant that re-distribution took place on a regular, if not annual basis (Yakubu 1985:6-8).

Dybdahl, whose study covered areas like the Yoruba and the Tiv ethnic nationalities in Nigeria points out that traditional systems of land holding still exists among ethnic communities on the continent. He observes that "land in homesteads and farms is acquired through tribal affiliation or kinship rights" (Dybdahl 1981:15). He also points out that in some cases land can be acquired through purchase or sale. Whether or not this is true of all parts of Africa, or only in the more traditional sections of the continent is not clear from Dybdahl's book. His emphasis is on village life within Israel. His focus therefore is on the village or more traditional sections of the continent. His descriptions are more or less typical of most rural land tenure including the one studied by the present author.

There are two major ways through which land is acquired in traditional land holding societies, namely, by inheritance and land clearing. These are very straightforward ways. One can inherit land from a relative – usually a father – or an unused portion, usually a no-go forest in one of the descent groups' land tracts, can be cleared (Nwabueze 1972:170-71). In addition to these two ways, there are other means through which land can be acquired. As we shall see in the specific examples from Nigeria, land can also be obtained through mortgage or temporary alienation of land to meet specific needs (Meek 1957:186).

There is also the possibility of land being acquired through legal manoeuvring. This is gradually becoming a feature of the Nigerian society due to "land use decrees" and whole-sale purchase agreements (Yakubu 1985:257). It is instructive to note, however, that in these so-called traditional communities on the continent, the kinship groups still exercise their rights of ownership to land. This is done through the requirement for consensus by the constituent units which ultimately holds equal rights to land. Land rights are exercised by the head of the social units on behalf of the social unit which ultimately holds the rights to land (Dybdahl 1981:16-17).

Once again, Dybdahl (1981:36) points at most traditional cultures in Africa as tending towards a system of land tenure in which three basic ideas emerge. The first of these is that society, or segments of it, is the basic controlling group in relation to land. Rights to land are dependent not on individual merits but on social criteria such as ethnic group membership and the fulfilment of social obligations such as marriage and maintaining a family. The latter is important as it involves women in the inheritance process (Nwabueze 1972:170-71). Secondly, land held communally cannot be sold or given away by individuals – especially to those outside the kinship unit or group (Ayandele 1966:69). Lastly, a non-monetary periodic redistribution occurs through the changes in membership due to births, deaths or other factors, such as adoption or temporary residency (Dybdahl 1981:36).

The use of land, both for residential and agricultural purposes, is usually inextricably bound with the traditional religion of the people who recognize God and their ancestors as joint owners and users of the land (Joseph Chukwu, 76 years old, interviewed on 17-01-04, Erema, Rivers State, Nigeria). The result is that an offering has to be made at the end

of each year to acknowledge the fact that the living use the land as custodians of past, present and future generations, and that it is a heritage belonging to God and handed over from the ancestors (Yakubu 1985:74-75).

This view is similar to the Old Testament (OT) concept of land as belonging to Yahweh, and humans as stewards of the land and merely temporary sojourners. Any change in this basic substructure affects the life of the entire community (McKeown 2003:488), and as such the land holding systems in existence should be taken into account by modern government and economic systems of land management.

The similarity between ancient Israel and other cultures with respect to land tenure systems has been underscored (Boecker 1976:17). In several ways the similarities are even more true of local African land holding practices (Moiserale 2001:394). For instance, it recognizes the Deity as primary owner of all land, and the kinship group as the main custodians of land on behalf of past, present and future generations (Ayandele 1966:69; Yakubu 1985:6-8). Another similarity lies in the observance of land laws intended to preserve the land so as to make it fruitful (Moiserale 2001:395).

As in Israel the basic land holding unit within the country was the *mishpahah*, so in most of sub-Saharan Africa the *kindred* represents the basic land holding unit (Meek 1957:186). This point will be clarified as we look at the social organization of the Ogbas and Ekpeyes of Nigeria (Akolokwu 1981:21). Individuals are associated with sharing in the land for both domestic and agricultural purposes. As Dybdahl points out, such individuals must be married and be raising a family to be considered eligible for a share in the land (Dybdahl 1981:36).

However, no individual, not even a unit of the *kindred* has the right to alienate any land apportioned to them permanently, as such an apportioning is only temporary and depends on his membership of the kin-group (Ayandele 1966:69).

Interestingly, Dybdahl's analysis takes into consideration the defence or security services which every *kindred* in the traditional communities is bound to provide in times of war or emergency. The ability to defend the land inherited from the ancestors is the true test of ownership in Africa, particularly in parts of Nigeria. Among the Ogbas there is a saying, "Ali ozoye wo azo di sa o kodi enye nwea" which means "Land that people did not struggle to

get is like no man's land" (Obulor Ochogba, 73 years old, interviewed on 5-01-04, Omoku, Rivers State, Nigeria).

4.3 THE LAND USE DECREE

The land tenure situation in Nigeria has gradually been changing for the better in the last two decades. In order to facilitate economic and social development, the Federal Military Government in 1978 under General Olusegun Obasanjo (who incidentally is the 3rd Republican Civilian Democratic President of Nigeria today) promulgated a decree tagged "Land Use Decree" which vested the title to all lands in Nigeria's city and urban areas in the hands of State Governors, rather than in local chiefs or kinship groups.

The law also defined some hitherto traditional communities and elevated them to "urban" status by Law, bringing such areas under the government's radical land laws, and facilitating both individual and corporate land acquisitions in such areas for social, agricultural, industrial, and economic development purposes generally.

This "decree" empowers corporate bodies and individuals to acquire land for developmental purposes in any part of the country, and the authority to make such land grants has been vested in State governors, no longer the traditional kinship groups, which of course still hold such rights in the non-urban areas (Yakubu 1985: 74-75, 257). This decree has greatly enhanced the economic and social status of women as they can now own land of their own in any part of Nigeria provided the guidelines for land acquisition under the land use decree are followed. This leads us to a careful consideration of the rising status of women in the Nigerian society with respect to land ownership and acquisition.

4.4 THE STATUS OF WOMEN

Although the land use decree makes no mention of women in respect of their rights under the decree, it clearly specifies that every Nigerian citizen – which includes women – are qualified to acquire land in any part of the country either for residential, industrial or commercial purposes (Yakubu 1975:74-75). In practice, however, women who apply for a land grant has to show evidence of their marital status before their request can be considered. The same condition applies to their male counterparts (Dybdahl 1981:11,19).

Both men and women must give concrete evidence of their marital status in order to be considered eligible for a land grant under the new dispensation – a reflection of the African value for the family as the primary basis for subsistence (Nwabueze 1972:170).

From the foregoing we see that no direct mention of women is made in the process of land sharing within the traditional setting, except in the context of marriage and the family. In a sense this is also true of men. A man is considered eligible in sharing the land only if he is married to a woman with whom he can raise a family.

What then is the status of women concerning property? It has generally been observed that women do not own or inherit a share of land which belongs to their own lineage. This is simply for the reason that a woman usually gets married and goes to live with her husband, who, from his own allotment of lineage land, must provide his wife with an area sufficient for cultivation (Meek 1957:186).

There are occasions on which a woman can own land in her own right, either by acquiring the land with her own money, or through inheritance or gifts. In traditional communities inheritance is rare, and gifts are scarcely permanent. Uchem (2001:134) mentions an instance where parents of a married woman had given her some land and its produce as part of her dowry, but after a few years her uncles forcibly took it back from her.

This gives one the impression that a woman may never own land through inheritance or gift. She has to buy land with her money in order to own personal land. A woman who owns land by way of purchase retains full ownership after marriage, and on her death the land passes to her children, or to her kin-group if she has no children. However, if she acquires property after her marriage, her kin-group has no claim over it when she dies, as her possessions naturally pass on to her children or to her marital kinship-group (Meek 1957:186).

To ensure that land remains within the kinship group, a woman is introduced into the Levirate marriage in a manner similar to that used in biblical countries. An example would be a case where a woman had lost her husband. One of her late husband's brothers or cousins may re-marry her. If she remarries outside her late husband's group she automatically loses any land rights which she formerly enjoyed within his group. Meek observes that land inherited by women can sometimes include land acquired by her

parents, and that she simply holds it in pledge, so that on her death it passes on to her children, or to her husband should the children still be minors.

Meek's observation does not reflect land inheritance practice in all parts of Africa. In Nigeria, for example, it is rare for individual nuclear families to own land except, as we have seen, within the context of the kinship group of which they are only a part. This was even more true of pre-colonial Nigeria, which is the focus of Meek's ethnological studies. She is right, however, in underscoring the general subordination of women on the continent, especially as it is reflected in the area of land inheritance.

The subordinate status of women is true not only of Africa, but also of other parts of the world. As Uchem (2001:134) points out, the subordination of women is true in nearly all cultures around the world. It is a strange phenomena fostered by religion and with deep roots in the human psyche. The submission of women is a mental state which pervades most of the world's religions, such as Judaism, Christianity and Islam to mention a few. The exclusion of women from owning property in their own right does not seem to be a problem unique to Nigeria, especially with the Land Use Decree of 1978 now in place (Yakubu 1985:257; Nwabueze 1972:186).

4.4.1 Status of Women in Nigeria

The general impression given about Nigeria is that the North is predominantly Muslim, while Christianity prevails in the South. However, this is not a true account of the religious composition of the country. There are as many Christians in the North as there are in the South-East for instance, and as many Muslims in the South-West as there are Christians in the North. The "Middle Belt" region of Nigeria is politically associated with the North, but it is in fact a mix of almost all religions in the country – Muslim, Christian and African Traditional Religion.

All three religions are practised with equal vigour in all parts of the country, particularly with the nation-building policies of "One Nigeria" instituted by successive military regimes since 1966. Consequently, the culture of subordination of women can be encountered in all parts of Nigeria whether the religion is Christian, Muslim or African Traditional.

The culture of subordination can be found in most societies, whether patrilineal or matrilineal; African Traditional Religion, Christian or Islam (Uchem 2001:112-113). Not only are women subordinated to men, they are also marginalized and kept on the periphery of human society, politically and economically. Surprisingly, Uchem observes that subordination and marginalization of women in the African context is a phenomenon resulting from cultural contact with Western Europe.

While this might be true of the Igbo, it is decidedly not true of the Yoruba, the Bini or the Ogba and Ekpeye of Nigeria. In the latter groups, both culture and religion have had an impact on the subordination of women. These factors have added to their isolation and marginalization through taboos and customs aimed at manipulating women to fulfil their reproductive roles, and excluding them from participation in sensitive areas of both public and communal life (Nwabueze 1972:170-71; Ahiamadu 1982: 3-8).

4.4.2 The Status of Christian Women in South-East Nigeria

It is significant to note however that women in South-East Nigeria enjoy a greater measure of equality with their male counterparts than is common to Nigeria generally. Such an egalitarian orientation has greatly enhanced the cultural adaptability and innovativeness of the Igbo both at home and abroad as will be noted in this discussion.

The Igbo occupy predominantly the South-Eastern section of Nigeria and are more or less a segmentary society without the hierarchical structures headed by Obas and Emirs common in the Niger Delta, South-Western and Northern parts of the country. Uchem (2001:42-43) points out that in traditional Igbo societies women were never marginalized. Instead they had access to property and enjoyed equal rights with their husbands in using ancestral land once they had been brought into the family through marriage (Nwabueze 1972:170-71)

If any subordination existed, it did so for cultural and ritual reasons, but was not of a type that made women inferior to or powerless before men. Rather than trace their present handicap to any inherent weakness or gender incapacity, Uchem identifies "the present subordination and marginalization of women as the result of lopsided colonial economic and educational policies which tilted more in favour of men and in the direction of Western and Biblical inferiorization of women"(2001:113).

Uchem points out that this cultural subordination has robbed women of inheritance rights and hedged them in with ritual prohibitions (taboos) by which men's pre-eminence and women's subordination were and are still enforced and perpetuated. There is something she refers to as a conflict of paradigms in the cultural contact of the Igbo with Western and Christian ideas.

She identifies a "headship model" which is sanctioned by Christianity and a "partnership model" which is the outgrowth of the cultural values of the Igbo. In certain areas or cultural groups among the Igbos for instance, the traditional or cultural values nurtured a "partnership model" which with the advent of Christianity became transformed into a "headship model" (Uchem 2001:53).

It is difficult to account for the "corrupting" influences inherent in the cultural contact between the Igbo and Western Europe. Yet they are real when looking at the socio-economic fabric of the society, and this is what Uchem (2001:53) has pointed out. We cannot dwell further on how much influence western culture exerts on the Igbo or any other part of Nigeria for that matter, as that is not our present focus. Her point, however, is significant in an African context generally where, as Dybdahl (1981) also notes in his four-point criteria for inheritance, women feature as necessary counterparts of men in a mutual quest for eligibility to share in the communal land in particular and kinship inheritance in general. Such nuclear families are both the basic social and economic units within the community.

Women considered themselves equal partners with their husbands in the use of the land, in the management of the home, in procreation and production. (Meyers 1988:142-148). However, women never took part in decision-making outside the home. The men served as the elders in the community which was responsible for decision-making though sometimes women's opinions were sought in matters involving their interest individually or collectively (Evans 2003:898-899).

4.4.3 The Status of Muslim Women in South-East Nigeria

The general tendency of subordinating women – which has been observed as prevalent in most cultures and religions of the world – applies to Muslim women in Nigeria as well.

Although the wife or daughter of a very wealthy Muslim may exercise lots of influence on the community, this does not extend to matters of inheritance. While Islamic laws theoretically allow for female inheritance, such rights are restricted in practice (Dybdahl 1981:29).

Like all other women in Nigeria, Muslim women are theoretically given the right to own land under the general provisions of the Land Use Decree of 1978. However, they do not do so on their own but in partnership with their husbands or male relatives. Moreover, in a society where patrilocal marriages are in vogue, a woman gets married and moves into a home provided by her husband, usually in his own home or one provided among his kinsmen. Whatever land or property acquisition she makes is considered primarily as something she jointly owns with her husband or male relatives, in a way similar to the conceptions of inheritance rights of women in the Ancient Near East cultures.

Since land cannot be transferred, land is not included in the dowries which fathers and relatives provide for their daughters when they get married. Moreover, a strongly patrilineal and patrilocal culture exercises subtle control over women's quest for a personal inheritance of their own. The same applies to both the Southern and Northern parts of Nigeria, regardless of religious or social leanings. With the promulgation of the Land Use Decree in 1978, the situation has been changing and women have taken advantage of the decree by buying their own land either for the purpose of building a house or for setting up a business. However, patrilineal inheritance rights are restored when a female landowner dies and her sons or brothers lay claim to the estate as primary claimants.

4.5 EVIDENCE FROM INTERVIEWS

Our discussion so far has reflected the views of authors who have provided us with valuable insights into the land tenure practices and the position of women in Nigeria. Our assessment is that inheritance matters tend to follow the same patrilineal and patriarchal patterns all over the world, but especially in more traditional, non-Western societies. We have also seen that scholars tend to link the cultural practices of Africa with Biblical (OT) practices rather than with Western culture.

What will follow is of critical significance to the Nigerian perspective on inheritance, as it follows an empirical rather than theoretical approach. Some issues have already been

alluded to earlier during our discussion on the Ancient Near East and sub-Saharan Africa, while others will highlight aspects not previously alluded to but which resonates with practices encountered in other cultures. Nigeria is an African country with cultural and religious links across and even beyond the continent, and it is to that country that we now turn our attention.

Nigeria is one of the most populous countries on the continent of Africa with over 124 million people. It is also a country “blessed” with a disproportionate multiplicity of both language and culture. The differences among its more than 400 ethnic nationalities increase as one moves from the coastal South to the “sahel” North, and from the Bantu-influenced East to the Niger-Kodofanian West (Manfredi 1989:337-338).

The Niger Delta – which is the region from which this author hails – is home to a linguistic mix from all the geo-linguistic zones of Nigeria (Grimes 1992). Suffice it to say, however, that this research makes no pretense at covering the cultural practices in all of Nigeria, or even of the Niger Delta.

Our data covers only a small but significant section which includes the Ogba and Ekpeye. On a macro level, the same cultural practices can be encountered in various degrees among the Ikwerre, Etche, Egbema, Ndoni and to some extent Abua – all in the Niger Delta; the Igbo of South-east; the Yoruba of South-west; and some sections of the Plateau in the Middle Belt – all of which form part of Nigeria (Armstrong 1986:72).

In the communities embraced by this research there is a general acknowledgement of land as belonging to God, and the peoples as holders of the land in trust for the past, present and future generations (Yakubu 1985:6-8; Akolokwu 1981:8-12). Land inheritance by women is rare and usually exists only on a temporary basis in most parts of Nigeria covered by this and previous research (Meek 157:186; Nwabueze 1972:170-71; Yakubu 1985:74-75). This is due to factors such as patrilineal descent and patrilocal marriages.

Our references are to Nigeria in general, but our primary focus is on the cultural-linguistic bloc described as Igboid (Grimes 1992 as cited in Ahiamadu 2000:2) to which the egalitarian Igbo and the gerontocratic Ogba and Ekpeye belong. Their affinity, as we pointed out, is more linguistic than cultural (Akolokwu 1981; Ahiamadu 1982:10-11). Inheritance practices differ from one ethnic group to the other even though the system of

patriarchy, patrilocality and patrilineage remain essentially similar (Uchem 2001:130ff). To the women in the Niger Delta, we now turn our attention.

4.5.1 Women in the Niger Delta

Nigeria, as we have seen, is a nation known for its cultural and ethnic diversity. We cannot, in a single thesis, pretend to be representing the cultural practices of the country as a whole. Our focus is mainly on the Ogba and Ekpeye of the Niger Delta in Nigeria. These two ethnic nationalities have a common history, geographical location, inheritance and kinship links (Sam 1979:43). Some of these links are shared with neighbouring ethnic groups as well but to a lesser degree (Amadi 1982:94-96).

The Ogba and Ekpeye, who occupy the north of the Niger Delta, number about 900,000 people and speak a language which shows some similarities to the neighbouring languages of Ikwerre, Egbema, Ndoni and Etche. These languages all belong to the larger linguistic bloc described as Niger-Kordofanian (Grimes 1988; Ahiamadu 2000:50). The various ethnic clusters in the Niger Delta are linked both culturally and linguistically. In pre-colonial times (1885-1900) they were self-sufficient economic and social units with minimum contact with one another (Ahiamadu 1982:5-6).

4.5.1.1 Pre-Colonial Gerontocracy

During the colonial period in Nigeria (1900–1960) when Britain formally exercised its sovereign rule over Nigeria, it did so indirectly through local chiefs and elders councils (Afigbo 1967:683-700). This is referred to as gerontocracy, that is, the rule of a family, community or clan by the eldest members (Amadi 1982:94). Such elders are holders of their respective ancestral sceptres, and collectively they make decisions on behalf of both the living and the dead (Akolokwu 1981:19). In pre-colonial and post-colonial times they administered the affairs of the family and society in an informal way as eldest members (Nwokidu 1974:6).

The cultural links foisted on Niger Delta communities such as the Ogba, Ekpeye and their neighbours as a result of colonial contact with Great Britain, which started in the late 19th century, has continued after Nigeria's independence from British rule in 1960 and has had a significant impact on these communities (Ahiamadu 1982:2-3). Some of the

observations made by both Dybdahl (1981) and Uchem (2001) apply with some modifications to the Ogba and Ekpeye as well, especially in the area of kinship structures, patrilineal inheritance and patriarchal rule.

Gerontocracy was a transformed patriarchy, as it extended men's rule over the micro family to the macro or extended family and from there into the community. As is the case in a patriarchal society, women's role in a gerontocracy apparently was minimal. Moreover, gerontocracy essentially signified the authoritarian control of the elders over the marginal sections of the community, as the elders were often under the influence and power of the younger and more articulate sections of the community, including women (Uchem 2001:46).

Gerontocracy was a tyranny and whoever paid the piper dictated the tune. It was difficult to strip the system of its incipient oppression until the advent of colonialism in the late 18th century (Jones 1966:72-80). This will form the essence of our discussion below.

Before the advent of colonialism, gerontocracy or government by the elders and heads of families was popular among both Ogba and Ekpeye ethnic nationalities. A hegemony was established in the communities and clans, and rule was enforced by a council of the most senior elders, who were holders of ancestral sceptres, and who met on major market days to rule on matters pending before them and to discuss issues as they arose in respect of the social, cultural and political affairs of the land (Ahiamadu 1982:10-11).

The Ogba and Ekpeye trace their origin to a common ancestor, Akalaka, who migrated south to the Niger Delta from the famous Bini Kingdom ruled by Obas in the 15th century (Ewoh 1952:13). The two ethnic communities were separated as a result of a serious imbroglio in which a son from one of the clans lost consciousness and was mistaken for dead. Not knowing that the victim was in fact still alive, the assailant fled in order to avoid the repercussions of having "murdered" a fellow man in cold blood. This is the separation narrative which has circulated in both cultures ever since.

In their separate settlements both Ogba and Ekpeye ethnic nationalities retained the essential characteristics of a well-developed kinship system in which women played a very significant, but subsidiary role (Sam 1979:21). Such roles played by women were basically unobtrusive.

4.5.1.2 Kinship Structure and Tradition

The kinship traditions of both ethnic nationalities can be better appreciated by looking at practices among some of their neighbouring communities in the Niger Delta; communities with which they share both social and cultural values, and with which comparisons and contrasts can be made. The kinship system prevalent in Ogba and Ekpeye are found not only in some other Niger Delta communities, such as the Kalabari, Ijo, Ikwerre and Etche, but also in the coastal parts of West Africa (Alagoa 1966:405–419).

Around the Guinea coast in West Africa - which runs from Bamenda in Cameroon to Dakar in Senegal - “kindred” is synonymous with “town” or “village”. Among the Kalabari of the Niger Delta the towns of Buguma, Abonnema and Bakana were founded by three kindreds and solely inhabited by their “houses”. Thus, Buguma is synonymous with the Amachrees, Prince wills and Georges “houses”; Abonnema similarly has the Jacks and George wills, while Bakana is synonymous with the Braide and Blacke “houses” (Jones 1956:90; Ahiamadu 1982:4-6).

Taking this into account, some contrasts between the Ogba and Ekpeye can be pointed out. Taking the Ekpeye as an example, there are more than six major “clans” to which names such as Imeagni, Ediwuru, Uchii, Ishikoloko, Agwu, and Uji (among others) are ascribed. Today there are about sixty-four kindreds which are offshoots of the original clans. The same is also true of the Ogba, where more than five major “clans” can be found, and to which more than thirty kindreds trace their descent, some criss-crossing from Ekpeye and *vice versa*.

Rather than being inhabited by descendants of one kindred, every town or village is a combination of inhabitants belonging to different kindreds. Hence it is possible to find in the larger communities of Akabuka, Oboburu, Omoku and Erema kinship groups of all the “clans” or kindreds living together, each possessing their own land in separate sections of the community.

The ownership of land as inheritance in the vicinity of a community entitles the kindred or extended family to send representatives to the Council of Elders or “Amala ka Ohna” meetings where important political, social, cultural, legal and religious matters are

discussed and laws connected to them enacted. There are descending orders of such Councils as one moves from the community level to the kindred and extended family level, and it terminates at the household level which of course is headed by a man. Women's roles are more or less advisory and unobtrusive (Braide Okirie 72 years old, interviewed on 10-01-04, Oboburu, Rivers State, Nigeria).

Implicit to this gerontocratic kinship system is a recognition of women's rights to land derived through their husbands, and in a few cases through their fathers. Once the land is shared at the kindred level and each individual family unit builds its own farm, the women's right to the land is acknowledged over the area in which she planted her crops. Crops include a variety of root-crops such as yams, cocoyams, cassava and all other fruit crops like corn, maize, pumpkin, melon, pepper, etc. A woman can harvest and market all crops except yams, which essentially are costlier and considered a male-owned crop. Traditionally a woman sells some of her harvest to raise money to assist her husband and children (Jonathan Ajie 74 years old, interviewed on 05-01-04, Obagni, Rivers State, Nigeria).

While men own the costlier crops, like all yam varieties, they do not use the farm crops, including the male-owned crops such as yam, except through their wives. Once they stand in the right relationship to their husbands, women for all practical reasons have the final say as far as the farms are concerned. However, their rights are automatically withdrawn once they prove insubordinate to or rebellious against their husbands (Albert Elenwa 75 years old, interviewed on 12-01-04, Akabuka, Rivers State, Nigeria).

4.5.1.3 Kinship Membership

Membership of the group is determined by birth or adoption. Membership of the kinship group, or family group in this case, includes not only persons alive in a particular period but also persons dead, and those not yet born. Land is more than a tangible property. It carries the mystical idea that members of the kinship group – past, present and future – share a common social and spiritual identity only on land (Akolokwu 1981: 21-24).

A common Ogbia saying is "ishi ka nwa Ogbia ka toga ya uzo ijne" or "the Ogbia do not go on a journey and never come back". The Ogbia hold a firm belief that those who for one reason or another travel will surely come back, and so their portion in the land must never

be omitted. In other words, anyone leaving the land to go on a long journey is sure upon his return to have his share of the land restored to him by the member of the family who has been taking care of it in his absence.

Immigrants who become naturalized in Ogba are encouraged to “stay here, marry here” and the kindred wherein the immigrant settles provides him with a portion of farmland on which he can cultivate crops or build a house. Until such a person decides to return home, the land he obtained to build his house, and his portion of the farmland in the kindred to which he is attached, remains his own rightfully and at death these rights are transferred to his descendants or closest kinship member (Jonathan Ajie 74 years old, interviewed on 05-01-04, Obagni, Rivers State, Nigeria).

In some cases the original kindred may find it inconvenient to continue providing an immigrant with farmland, in which instance the said person will be reminded of his immigrant status and urged to return to their original home. Alternatively, immigrants could be adopted within the larger community as “owho” title holders if they separate from their host kindred and become an independent family unit within the community, a status they might attain if they have access to farmland of their own in the vicinity of the community (interviewee source: Jonathan Ajie, *ibid.*).

4.5.1.4 Land Ownership and Use

Among the Ogba, as in all Nigerian communities, there is a general acknowledgement of the land as belonging to God, and the people see themselves as holding land in trust for the past, present and future generations (Yakubu 1985:6-8). Land to the people is of unlimited utility. Every piece of land, whether swampy, marshy or dry, belongs to someone or some kinship group. While land may be unsuitable for agriculture, it might still be very valuable during the rainy season for fishing, or during the dry season for burying the dead (Akolokwu 1981: 8-12).

Therefore, land is never sold or given as a gift permanently, and no individual or group has absolute right to dispose of land at will. The consent of all the units making up a kindred must be sought before land can be put to any particular use either at the individual or communal level. There are three categories of land in the area of the Ogba:

Sacred land – which is set aside for the use of adherents of traditional religion as a shrine or meeting place. It is usually covered by huge trees that provide shade throughout the day and so makes it suitable for open-air or out-door meetings. The shrine and surrounding areas are considered sacred and for the use of “special” purposes.

Swampy and stream lands – these are used mainly for hunting, fish-trapping and timber collection. Arable sections are occasionally used for the production of water-induced crops such as cocoyams, pumpkins and melons. They are usually very difficult to cultivate and few people do so.

Dry and arable land – this is land suitable for agricultural and building purposes and is usually in very high demand. Here the value of land is measured in terms of its economic worth. Not only is arable land priced for its economic worth, but also for social and political value as people build houses on them, and markets and assembly grounds have to be constructed on them (Akolokwu 1981:21-24).

Arable land is sometimes used as mortgage in obtaining short-term loans, and once the loan is repaid the land is returned to the original owner. This applies only to individual land which a person bought with his own money. However, if the person who mortgaged the land dies, his sons or daughters are eligible to recover the land provided they have repaid the loan.

Occasionally there are no capable sons or daughters to recover the mortgaged land, and in such cases a kinsman of the original owner might decide to come to the rescue of the children by recovering their father's land on their behalf. Such individually owned land is very rare; communally owned land is more common in the area (Joseph Chukwu 76 years old, interviewed on 17-01-04, Erema, Rivers State, Nigeria).

Land is more often treated as belonging to the lineage or kin-group, and in some cases to the extended family unit. Individual rights over land and its use are co-terminous with the membership of the group. No male is considered eligible to a share of the land until he is married to a woman. In this way both male and female members are granted equal rights to the land, with inheritance passing through the male line. Moreover, marriage is patrilocal and it is the female who moves to the man's home and stays with him on his inheritance. Since female members marry away from their ancestral homes, they are not

given land as inheritance, but are given dowries which compensate for the land they do not receive (Nwabueze 1972:170-171).

4.5.1.5 Land Use Tradition

A popular belief among the people is reflected in the statement credited to a Yoruba chief whilst testifying before the West African Land Committee in the 1930s:

“...land belongs to a vast family of which many are dead, a few are living and countless numbers are still unborn.” (Yakubu 1985:6-8)

Land is such a valuable possession to any family because it determines a family's subsistence and worth in the community. Those who own arable farmland face little difficulty in finding wives, whereas those who do not have it have to go very far to find wives. Yet both the haves and have-nots live together in the same community.

Women belong to the community as well as men, but are denied the right to hold land by virtue of peculiarities attached either to the nature of their rights or the restrictions of such uses which demand special treatment. Members of the family or community whose position to hold land or own land needs special attention are persons under age (i.e. children or infants), non-natives, female members and people of slave descent (Nwabueze 1972:170-171).

There are also laws and taboos meant to protect the land from the abuses of an unsuspecting younger generation or strangers:

Firstly, no sexual intercourse is permitted in a farming area. Culprits are made to pay a fine and to offer sacrifices on the affected spot (interviewee sources: Joseph Chukwu *ibid*; Albert Elenwa, *ibid.*). This contrasts sharply with the Biblical law which executes a man who presumably has intercourse with a woman outdoors in the bush with or without her consent (Dt.22:25-27).

Secondly, the cutting of palm fruits must be preceded by “ikpoma abuba ekwu” and completed with “ikpochni abuba ekwu”, which refer to the opening and closing of the palm harvest season respectively. Moreover, the harvesting of palm fruits is normally followed by a secondary harvest by the marginalized, such as widows, strangers and other

interested persons “nde n’chori ekwu” who, after the main harvesting has taken place but before the close of the season, gather fruit from under the palm trees already harvested.

Thirdly, you do not pin your matchet or cutlass downwards into the soil during clearing, ploughing, planting or harvesting. It makes for a poor harvest because the land is being hurt in the process (interviewee source: Jonathan Ajie, *ibid.*).

As can be seen, the land is perceived in anthropomorphic terms as having human senses and feeling. The land can rejoice, and it can be offended, injured and defiled. On the other hand, the land can be healed when appropriate measures are taken and taboos observed. The land can mourn or rejoice and this reflects on those inhabiting it.

Lastly, you do not bury a leprous person in a grave when he or she dies. The corpse of a leprous person is left exposed in a sacred forest. On one occasion in 1947 when this law was violated, the result was a general outbreak of smallpox and a total eclipse of the sun.

A leprous person is defiled, or as the people say “O bu enye ru aru ya enya ka nde madu” - “He is a defiled person in the eyes of the people”. When a leprous person comes to a gathering or assembly of his kinsmen, he must be kept in a space separated and distant from them. He will be served food and drink like the others, except that he must come with his own vessels – plates and cups. However, his rank or grade in the kindred is respected and his rights are given to him (Interviewee source: Jonathan Ajie, *ibid.*). In other words, “Enye kpo boga boga je ede okwu aya awepiyariga hne iraba mminya. Obo ri ugwe ya ede o dua” - “The person afflicted with leprosy or a serious skin infection goes to a gathering with his own drinking vessel. His rights will be given to him.”

The point to note is that there are occasions when such a separatist attitude is meted out to women during social or cultural occasions, because they are generally considered liable to defilement due to the experience of monthly lactation which is prevalent among women prior to menopause. However, women’s position in the community and in the gerontocracy rises, and they are treated with more respect the older they get and as they pass the age of menopause.

In some parts of the ethnic nationality, widows after menopause are in some kindreds recognized as full members and given their share of the farmland for the upkeep of their

children who might still be minors (in the sense of being unmarried) (Josiah Ajie, *ibid.*; Uchem 2001, *ibid.*). Land in Ogba is used mainly for agricultural, housing and general living purposes. Good use of the land, it is believed, makes for an abundant harvest (interviewee source: Jonathan Ajie, *ibid.*).

We can therefore agree with the assessment of the land situation in Nigeria by Yakubu (1985:74-75, 257), who states that “the cardinal principle of all customary land tenure...is that land belongs to all the people which may be held by families, communities and individuals”.

The right of access to land in Ogba is a privilege of being a member of the family or community which links you to an “ime-ogba” (household) consisting of a man, his wife and children, and in turn is linked to an “onu-ukpu” micro-extended family consisting of sons and grandsons of one father along with their wives and children. The latter in turn is linked to the “onumirna” macro-extended family consisting of sons, grandsons, their wives and children, grandchildren and in some cases great-grandchildren, including temporary residents, widows, and other dependents such as orphans. About three or more macro-families may be further linked to the same ancestral family or kindred known as “obudo”(interviewee source: Braide Okirie, 72 years, interviewed on 10/01/04 Oboburu, Rivers State, Nigeria).

Land is mostly held at the level of the macro-family “onumirna”, but also at the level of the “obudo” (kindred). At a tertiary level land could also be held by the “obudo-ukwu”, the macro-kindred consisting of two or three kindreds joined to a common ancestry within a larger community.

Furthermore, land belongs to all the people. All the people have equal access to land and the council of elders (gerontocrats) determine how the farmland is shared and distributed from year to year. The situation whereby a chief or headman of the group has charge of the land does not exist in Ogba and Ekpeye. Instead the oldest member of the kinship group holds the “owho” or sceptre of authority along with and on behalf of constituent units of the kinship, and only by consensus are all land matters decided and implemented.

It is considered treasonable for an individual – no matter how old or highly placed – to dispose of kindred land unilaterally. Such an attempt is quickly halted, and the individual

concerned punished through ostracism, and when repentant, he has to pay the necessary fines before being accepted back in the community, and into his membership of the kindred in particular.

From the foregoing it is evident that every person who is a member of the community or family is entitled to hold land. In practice, however, native law and custom does not appear to be so egalitarian or democratic in its application.

Land has never been a major issue under discussion at Church Synods or Conferences, perhaps due to the watertight separation between the Church and State in Nigeria. Churches have always been an organ for moulding public opinion and such synods and conferences, if held, could go a long way in improving land use and land administration in the Niger Delta.

At present all land matters are vested in the State and Federal administrations with the various communities holding their customary rights over land. Such customary rights have, however, been circumscribed by the "Land Use Decree", though the impact of the decree is felt more within the cities and their vicinities, urban areas and their suburbs, and even more among the "oil" bearing communities of the Niger Delta (Akolokwu 1981:24-36; Yakubu 1985:257).

4.5.1.6 Land Inheritance in Oral Tradition

There are certain sayings in Ogban oral traditions and proverbs which portray the general perception of inheritance customs prevalent among the people. In conclusion, a few examples are given below:

"Ali anwe madu, madu shi ya ali ka nwegha ali" (The land owns humans. Humans originated from the land and so does not own it) (Ajie, J.). Comment: The ability of the land to spew out those who defile it is one expression of its inherent worth and control over man, though man be lord over it (Lev.18:25,28).

"Ali ma mma, agadi gba egwu" (If the land is good, elders show it by dancing) (Agni, O. 46 years old, interviewed on 23/12/03). Comment: This compares with the land of Canaan with all its milk and honey, silver and gold making the people sing for joy (Dt.8:9).

“Bia abia ka mirna uka ali” (A stranger never knows about land disputes) (Chukwu, J). Comment: This compares with the custom of man never alienating land permanently as strangers and pilgrims with God (Lev.25:23-24).

“Eje di rnam okwu ornu” (A bad husband entice me with farmland) (Ajie, J.). Comment: This compares with Caleb’s offer of land to any one who conquers the Debirites (Jos.15:13-18; Judg.1:11-15).

“Ihni ali ya mbu ali, madu piyaga ya ali ya ali” (The land has front and back to which humans gather from different places”) (Ajie,J.). Comment: This compares with the land said to be able to spew the wicked out of its mouth, as if the land has a face with mouth, eyes and noses (Lev. 18:28; 20:22).

“Iwu di ya ohna a di ya ohihia” (The same law governs both the community and its farmlands (bushes) (Okirie, B. ibid). Comment: This compares with Yahweh’s instruction to the Israelites that criminal tendencies noticed at home or in the field should be restrained with appropriate punitive measures (Dt. 22:23-27 KJV).

“Nde bu uzo di ya ali anwega owho ga” (The first people to occupy land are the holders of its title or sceptre).(Ajie, J) Comment: This compares with the notion of land to be taken in those places where the feet of Israelites trod, a favorite expression of the Deuteronomistic historian (Dt. 11:24-25; Jos 1:3-5)

“O bu okno ibu ka buga ali” (A heavy weight carrier does not carry the land) (Ochogba, O) . Comment: This compares with the Israelites whom Moses felt their burden being too heavy for him (Num.11:14; Ex.18:18).

4.6 CONCLUSION

The issue of land inheritance and the minimal part which women played in it is a very interesting one in Nigeria as one examines the land holding situation from one section of the country to the other. Obviously, the examples we have seen from the Niger Delta and South-east parts of Nigeria in particular compare with those of the ancient Near East in

general showing a general tendency to exclude women from directly possessing the inheritance of land (Meek 1957:186; Nwabueze 1972:170-71; Westbrook 1991:68-69).

With the promulgation of a Land Use Decree in 1978 by a Federal Military Government a dual land tenure system has been foisted on the people of Nigeria which inadvertently has the advantage of making land inheritance available to more women than before (Yakubu 1985:247). This dual tenure now includes the customary land tenure laws of the kinship group, and the received law of the Federal Government.

Besides the serious impact which the decree has made on the "Oil" bearing communities of which Ogba and Ekpeye predominate, a wholesale application of the decree has been more in the areas designated as urban and semi-urban which includes the Federal capital territory, Abuja, the Federal territories of Lagos, Kano, Port Harcourt and their suburbs, all the thirty-six State capitals and their suburbs, and all the over seven hundred and seventy-eight (778) local government headquarters and their vicinities (Yakubu 1985:74-75).

Women's ability to own land has undoubtedly been enhanced by the Land Use Decree, as they can now purchase and retain land in the cities and urban regions of Nigeria. As Meek (1957:186) observed this practice is not new. It has however received an added impetus as a result of socio-political changes in the country. The Decree also does not alter the traditional patrilineal inheritance. The implication is that inheritance of land owned by women inevitably find their way back into the male line once the original owner dies. This is still considered as being normal in most African communities.

As in all of Africa, land in Nigeria is held in the highest esteem. The people believe that the land is their final home because at death they are buried there, next to their ancestors – forefathers and foremothers. This compares with one of the last wishes of the patriarch, Jacob (Gen. 47:29-30). So far all the land laws in the country have given only a minimal recognition to women's ability to own or inherit land (Harris 2000:950).

Moreover, this recognition has been, as is the case in other parts of Africa, that their rights are secondary rights deriving from their belonging to a household through marriage (Nwabueze 1972:170-171). This is true of women in South-east Nigeria as it is in the Niger Delta among the Ogba and Ekpeye who by means of a gerontocratic system of rule shunt the women into marginal and unobtrusive roles (Meyers 1988:48).

As has been said before, land has never been a major issue discussed at Church Synods or Conferences, perhaps due to the fact of the watertight separation between the Church and State in this part of Nigeria. If there has been any, the present author would like to know of it, as it is very crucial to a general awareness in the area. Churches have always been a veritable organ for moulding public opinion, and such synods and conferences, if held, could go a long way to improving land use and land administration in the Niger Delta.

In the fifth chapter we shall do a functional equivalence translation of our pericope. We shall use the functional equivalence approach of translation to show that this tendency towards subordination of women, is not the result of any inherent physical handicap or gender incapacity, but the result of a society whose inheritance customs and laws were shaped by patriarchal values, and skewed to favour, as e.g. in the case of the Igbo, Ekpeye and Ogba, patrilineal and patrilocal traditions.

CHAPTER FIVE

A FUNCTIONAL EQUIVALENCE TRANSLATION OF THE ZELOPHEHAD NARRATIVE IN NUMBERS 27:1-11

5.1 INTRODUCTION

Our attempt to do a functional equivalence translation also incorporates a close reading of the Biblical text. This is done simultaneously in order to highlight certain syntactic and semantic features of this pericope. A functional equivalence translation hopes to promote a better understanding of the inheritance rights of women. A definition of functional equivalence has been given in the first chapter, and will for clarity be given below at the appropriate section.

It is our considered opinion that the narrative (Num.27:1-11) can be interpreted and translated in a responsible way using the functional equivalence approach. Interestingly, there are semantic and analytical tools which the functional equivalence approach employs both in exegesis and practical translation. Such tools include **semiotic**, **structural**, and **cultural** aspects of translation (Gentzler 1993:54).

By **semiotic** is meant that the words used in translating these structural and cultural values must in themselves be gender inclusive. In other words, they should be such words as highlight and transcend the subordination of women. They should also be useful in deconstructing and reconstructing such states of subordination with a view to enhancing women's role and performances in society (Nwaoru 2002:64-65).

By **structural** is meant the underlying cultural value of gender harmony imbedded in the mores and ethos of most communities, and in which men and women are seen naturally as partners of an inheritance bestowed by God (Uchem 2001:42-43; Naude 2002:47)).

By **cultural** is meant the overlapping of male and female roles as they relate to their economic survival, maintainance of security and reproductive functions. Such roles complement each other and are not mutually exclusive (Meyers 1988:28; Deist 1990:63).

Our goal therefore is three-fold:

First, to use a Nigerian perspective in highlighting salient features of the text which make for a more sympathetic understanding of the inheritance rights of women.

Second, to apply a functional equivalence translation approach to specific verses and phrases in Numbers 27:1-11.

Third, to draw conclusions keeping in mind the sociological and cultural relativity involving ancient Israel and a section of Nigerian communities both in the areas in which cultural values are shared and in those in which they differ.

This is the point at which one can emphasize the issue of cultural relativism also defined in the first chapter. Culture everywhere is relative, and do not always share similar features, except in a more general way. For instance, ancient and modern societies are separated from each other not only geographically, but also temporally with several millenia standing between them. Although both has been confronted with similar female inheritance problems, yet they experience the same problems in different ways (Nida 1991:8-9).

It is important, however, to underscore the aetiological value of the Zelophehad narratives, and perhaps, as some have suggested, its folkloristic character as well (Nelson 1997:1-4). Of parallel importance also is the ethos and mores which characterize the inheritance traditions of most of sub-Saharan Africa.

There are ways in which a responsible interpretation of the Zelophehad narratives can influence the ethical and theological conceptions of female inheritance rights within at least the faith communities in Nigeria, if not the society as a whole. To do this successfully certain cultural concerns need to be addressed.

5.2 CULTURAL CONCERNS

This text (Num.27:1-11) portrays a legal claim by the daughters of Zelophehad to inherit land in the absence of any male offspring (Levine 2000:345). The event occurred as the children of Israel were camped on the Plains of Moab by the banks of the Jordan overlooking the city of Jericho. The setting in Num.27:2 was at the door of the tent of meeting before Moses, Eleazar the priest, the leaders and the entire congregation. There

is an assumption in the narrative that only males can inherit, since the clan is propagated through the male line. This being so, the daughters of Zelophehad pleaded that unless they were permitted to inherit, their father's name would be wiped out of the family records. Moses brought their case before God who approved their plea and granted inheritance rights to them.

The inclusion of women in the line of inheritance was an innovation which meant that inheritances now had to pass through the son, daughter, brother, father's brother and nearest kinsman, in that order of priority. This legislation, otherwise known as the law of succession, now included women (Weingreen 1966:518).

By using the functional equivalence approach, the relevance of the text to the inheritance situation of women of Ogba and Ekpeye can be impacted positively, and thereby transform the negative attitude which surrounds the inheritance rights of women at the present time.

The rabbis have consistently applied the agnatic or patrilineal principle to this law of succession. The agnatic principle emphasizes that inheritance is passed to males through the father's side (Dozeman 1998:218). This principle totally excludes maternal relatives from the line of inheritance. It does not, however, detract from the fact that women were already considered capable of inheriting property at such an early stage (Milgrom 1990:233). Therefore, the following textual prelude to a functional translation should be noted:

Firstly, the phraseology of these narratives suggests that they were clearly of a priestly strand, (Num.27:2) apparently a later addition (Milgrom 1990:xxxv; Noth 1980:210).

Secondly, the point of argument was that Zelophehad had incurred no particular sin for which his female descendants would suffer. Instead, like the rest of the Israelite generation, he had suffered the punishment of dying in the wilderness (Num.14:29ff) so that his daughters were in the same position as the other Israelites of their generation. A suggestion by Rabbi Aqiba that Zelophehad could have been the Sabbath-breaker mentioned in Numbers 15:32-36 does not represent a general rabbinical opinion, though it could be a learned speculation (Budd 1984:301).

Thirdly, the continued existence of a man's name was dependent on the inheritance of land by his descendants. Since Zelophehad had no sons to share in the territory of the Hephher clan, the argument was that his daughters should at least join with their cousins in the matter of inheritance (Noth 1966:210).

With this background in mind let us now proceed with **1)** a brief historical background of Bible translation; **2)** a short explanation of a functional equivalence approach to Bible translation; and **3)** a functional equivalence translation of, and explanatory notes on our pericope.

5.3 BRIEF HISTORICAL BACKGROUND OF BIBLE TRANSLATION

The history of Bible translation and the evolution of various translation models is a long one and the subject has been dealt with extensively in the field of Translation Studies. Our goal as Biblical scholars is to understand the differences between the functional equivalence approach and the more literal approaches, and to show as we have briefly done earlier the relevance of the recommended approach also discussed below in capturing the hermeneutical and exegetical features of our pericope. Historically speaking however, there can be no complete discussion of the functional equivalence approach without a brief mention of Eugene Nida.

It is important to stress the point first raised by Eugene Nida that all translations should aim at conveying the correct, accurate and natural sense of the original or source text (ST). These ideas were contained in Nida's book *Theory and Practice of Translation* (1974) which since then has become the benchmark between a purely literal and a dynamic equivalent translation. Since the 1990s scholars like Edwin Gentzler (1993) and Nigel Statham (2003) has refined Nida's concept of a meaning based translation and made it more functional, which is why the new approach is called a functional equivalence approach. On-going researches in the field of Translation Studies have further refined the concepts, but the idea of functionality is still at the core of most new approaches. A translation fulfills its function or performance for its primary target audience if it makes the target audience understand what was translated and why it was translated that way (Naude 2002:57).

This must be based on “shared background knowledge”, “cultural assumptions” and “literary traditions” from both source and target communities. Moreover as Naude (2002:47) has observed the functional equivalence approach under any guise must be made to make a pragmatic sense of the Biblical text based on proper textual analysis or exegesis.

Critics of the functional equivalence approach think that Eugene Nida obviously was disconcerted by the more traditional, literal forms. Little wonder then that he went to the opposite extreme of proffering a dynamic equivalence form which completely ignores faithfulness to the form of the original source text (Gentzler 1993:54). Others stress the point that neither a dynamic equivalence nor a functional equivalence translation can succeed in eliciting appropriate responses from the target audience in communities which has not been exposed to a purely literal translation (de Blois 1997:21-30).

In a later book by Eugene Nida, *From One Language to Another* (1986) the concerns of the critics seem to have been well addressed. Here a more comprehensive discussion of the “functions” to be used in reference exclusively to the original speakers and receptors consists of eight items which space does not permit a detailed mentioning of them here. Suffice it to say as Nida (1986) pointed out that “the imperative, emotive, performative, and inter-personal functions are often far more important than the informative one” and that where these are present in the Biblical text, every effort should be made to convey them (Nida 1986:15).

Among the Ogbia and Ekpeye communities of Nigeria, there has been an upsurge of second language Bible reading since the end of the Nigerian civil war in 1970. However, very little is known of texts such as Numbers 27:1-11. This is partly due to the limitations imposed on a second language user by idioms, semantic domains and linguistic forms which differ from his first language or mother tongue (Mojola 2001:1-26). In the case of the Ogbia and Ekpeye no literal or functional translation exists in either of the languages. It is our attempt to use a functional equivalence method in conveying the message of obscure texts such as the one mentioned above so as to bring about social transformation in matters of the inheritance rights of women (Ahiamadu 2000:3-4).

5.4 A FUNCTIONAL EQUIVALENCE APPROACH TO BIBLE TRANSLATION

There are some features of a functional equivalence which needs to be explained before the actual translation itself, and this we hope to do in the following sections. This is not a place to engage in the history of translations or the various theoretical issues which confronts the juvenile field of Translation Studies (Munday 2001:14-15). Since our focus is on the functional equivalence approach, let us start with an explanation of the functional equivalence approach to hermeneutics and Bible translation (Smith 2000:25).

A functional equivalence approach to hermeneutics and Bible translation strikes at the very root of a literal reading of the Bible (Mojola 2002:208). Functional equivalence focuses on meaning rather than form. The same thought can be expressed in different forms by different languages. Retaining the form of the original does not guarantee retaining its meaning; instead it can indeed lead to a distortion of meaning. Therefore, the form of the original is incidental to the form of the translation (Naude 2002:50-52). Functional equivalence makes no attempt to retain the form of source text unless the natural way of expressing the same thought in the receptor language would use a parallel form. A look at the translation below will reveal that in some places Hebrew forms are reflected whereas in others they are not (Nida 1991:7).

The various conceptions of women's involvement in the inheritance of land or property has, until recently, been the result of centuries of a literal reading and interpretation of the OT, both in its original Hebrew form and in all of its translations (Meyers 1988:122). A literal reading of the OT has led generations of Christian leaders to project all kinds of evil onto women, especially as the story of Adam and Eve has been read. Women have therefore always been seen as sources of negative insinuations and as subtle mischief-makers (Uchem 2001:167).

A functional equivalence approach to translation can be applied to deal with this negative attitude towards the feminine gender in the Biblical text, and this change can be greatly enhanced if effectively combined with a hermeneutical approach that is culturally sympathetic to women (Nord 1997:137; Uchem 2001:148; Naude 2002:44-49). There are positive values of women which the Zelophehad narratives portray, and which can transform our attitude towards the female gender in a healthy and harmonious way (Getui 1995:3-4). On the other hand there are cultural values and practices among the Ogba and

Ekpeye which consider for instance the inheritance of land as belonging equally to a man and a woman, and this resonates with the gender equality inherent in the human estate right from creation (Harris 1992:949).

5.4.1 A functional Re-telling of Inheritance Narratives

In most of the land grant narratives presented in the book of Joshua, the initiatives always came from the men, with the women placed in the background of the stories. Yet as we have seen, there is no inherent gender incapacity in females because of which they cannot stand with their male counterparts in the matter of inheritance of land or other resources. A functional approach to the reading of the Biblical text and a re-telling of the inheritance narratives, taking into consideration the liberating message of the Good News of Jesus Christ our Lord, will help bring women out of the present social and moral imprisonment which has been their lot, and for which they have been unable to inherit property.

Since the Biblical standards for a sound theological and moral life resonates with cultural values in most human societies, especially in Africa, there is no reason why the continent's rich cultural heritage should not be explored so that positive values of a more gender inclusive reading of the Bible can be undertaken. This point has been strongly emphasized by women from different cultural backgrounds (Uchem 2001:146-8; Meyers 1988:168).

A functional equivalence approach to exegesis, hermeneutics and translation presupposes a good grasp of the contextual and legal issues involved in the Zelophehad pericope. For that reason we offer a brief contextual resumé and a discussion of some textual issues.

5.4.2 A Functional Translation of and Explanatory Notes on Numbers 27:1-11

Social transformation takes place when the text is made to speak in the language of the people directly from the Hebrew, and without the intermediation of a second language (Mojola 2002:202). It is imperative to let the text speak for itself in this way to the target audience. Here the text will first be rendered in a more literal translation, followed by a functional equivalence translation into Ogba, and this in turn will be given an English back translation to enable the reader to grasp the vernacular in a more understandable way. A back translation stays as close as possible to linguistic forms of expression in the receptor audience, which in this case is Ogba.

Below is the Masoretic (Biblical Hebrew) version of the text which is followed by a literal (NIV) translation; a vernacular translation into Ogba, and a back translation into English which follows the Ogba linguistic forms of expression:

1 וַתִּקְרַבְנָה בָּנוֹת צֶלְפָּחָד בֶּן־חֶפְרָה בֶּן־גִּלְעָד בֶּן־מָכִיר בֶּן־מָנַשֶׁשֶׁה
 מְנַשֶּׁה לְמִשְׁפַּחַת מְנַשֶּׁה בֶּן־יוֹסֵף וְאַלְהָה שְׁמוֹת בָּנוֹתָיו מַחֲלָה
 נֹעָה וְחִגְלָה וּמִלְכָּה וְתִרְזָה:

1. The daughters of Zelophehad son of Hephher, the son of Gilead, the son of Makir, the son of Manasseh, belonged to the clans of Manasseh son of Joseph. The names of the daughters were Mahlah, Noah, Hoglah, Milcah and Tirzah. They approached (continues on p. 87)

1. Á bù má umu adná ka iZelophehadi nwá ka Hnepa nwá Gilidi nwá ka aMeka nwá ka Manashi, shibè wò yá obudo ka Manashi nwá ka Jesepe biaru wò. Èwhna nde guwo rini Mmala, Nonwa, Hagila, Milika, ya Tiruzo.

1. That is how children daughter of Zelophehad child of Hephher child of Gilead child of Machir child of Manasseh(1a) people family of Manasseh child of Joseph drew near(1b). Name of theirs include Mahlah, Noah, Hoglah, Milcah, and Tirzah(1c).

Comment: This text allows for more inclusive gender relations by ascribing the same status of “children” to daughters as well as sons.

Vs 1a “child of Hephher, child of Gilead, child of Machir, child of Manasseh, of the tribe of Manasseh, the child of Joseph” This “*toledot*” formula enunciating the genealogical link between Zelophehad and Manasseh son of the patriarch Joseph is important, though it is not found in the Latin Vulgate (BHS1990:264). Ulrich (1998:535) has suggested that Zelophehad’s *toledot* strikes at the heart of the Abrahamic covenant, which promised not only land but also a continuing relationship of God with Abraham’s descendants (Gen.15:18; 17:7).

At a time when that ultimate promise was being fulfilled to a new generation, the case of the daughters of Zelophehad might be one among many similar cases involving

inheritance rights generally, and this may be why the matter is included in the Torah, and why vv. 8-11 gives a transcendentally-based legislation on matters of this nature (Ashley 1993:542-43).

Hepher is the name of a man and place in Israel. Gilead, originally was the name of a small area which then grew to become the name of the whole area east of Jordan, and north of the Arnon river. Machir is the eldest son of Manasseh who himself was one of the twelve tribes of Israel, a descendant of Joseph the patriarch (BDB 1968:586).

In Ogba, as in patrilineal societies, when it comes to genealogy, the use of a noun “child” is representative of descendants through the male line. The English word “son” translated as “Okpirna-nwa” means the very first son of a man, and is rarely employed in genealogical records.

vs.1b “Then drew near the daughters of Zelophehad” The qal imperfect verb used can be translated “approach” (BDB 1968:897) which is the word used in the NIV, or “draw near” (KB 1958:852). One can approach another in kindness or for war, and in this case the daughters of Zelophehad drew near to ask for the help of the assembly, and especially of Moses. That these were ladies, and indeed children of the same parent is reflected both in the Hebrew, English and Ogba. Not only does this point at their unity of purpose which in itself is remarkable, but also it highlights the importance of the issue which they were raising (Nwaoru 2002:51).

The name of Zelophehad occurs right from the onset along with his genealogy. He was portrayed as a man of integrity (Num 27:1, 3) who merited a portion of an inheritance in his father’s house in the tribe of Manasseh. Apparently, nothing is said of his wife who might also have died, thus ruling out levirate marriage and the preservation of Zelophehad’s name and possession (Weingreen 1966:518-520)

Vs.1c “these are the names of the daughters – Mahlah, Noah, Hoglah, Milcah, and Tirzah”. It is remarkable that the narrator is careful to mention the names of these daughters not only in Num.26:33, but also repeatedly in all the other texts mentioning the case (cf. Num.36:11; Jos.17:3). These names seem to have originated here, and were alluded to earlier in the census narrative to testify to the fact that the Zelophehad daughters eventually inherited land and became clans of their own. The names has been

translated virtually literally, with a spelling that fits into the Ogba word pattern which is a vcv, instead of a cvc pattern (cf. Barnwell 1986:211-13).

Considering that the Bible generally is highly selective of its material content, the repeated mention of the names of these daughters as shown in the narratives highlights not only their importance as individuals, but also their importance within the assembly (Getui 1995:1). Instructively, their names metamorphosed into clan and city names in Israel suggesting that these five ladies are not inconsequential (Nwaoru 2002:51).

2 וַתֵּצְאוּן לִפְנֵי מֹשֶׁה וְלִפְנֵי אֶלְעָזָר הַכֹּהֵן
וְלִפְנֵי הַנָּשִׂאִים וְכָל־הָעֵדָה פֶּתַח אֹהֶל־מוֹעֵד לֵאמֹר:

2. the entrance to the Tent of Meeting and stood before Moses, Eleazar the priest, the leaders and the whole assembly, and said,

2. Wóo guzòpiya yá y'ihni ka Moziz yà y'ihni ká Elieza Ògóó Chukwu, yà y'ihni ká ọsa okenyi obudo nde nagburumà yá ánáma ulọ ikpnó, bâ le kwu wá,

2. They stood out (2a) in face of Moses and in face of Eleazar the Priest of God, and in face of all elders (heads of) families already gathered outside of meeting tent, saying (2b) that,

Comment: There is no gender distinction in the third person singular or plural in Ogba. In order to retain the femininity of the protagonists the reader is reminded of the preceding verse wherein the names of the ladies were explicitly mentioned. That context alone, in this case of the action of Zelophehad's daughters, influences the reading that follows.

Vs.2a "They stood out in front of Moses....Eleazar the priest....the elders of the people...before the entrance to the tent of meeting...saying". The entrance to the tent of meeting was the place where major decisions were taken, because it represented the presence of God. In the ancient Near East and particularly in the cities of Canaan, the judicial court often convened by the gate at the entrance to the city (Gen.34:20; Ruth 4:1).

This practice of taking important decisions in front of the tent of meeting resonates with the custom among the Ogba and Ekpeye of taking major decisions outside of the Elder's

meeting place, and has accordingly been translated “anama ulo ikpno” literally the “arena of the house of meeting”.

Decisions reached before Moses, Eleazar the priest and the elders in the presence of God were therefore not only binding but sacred and inviolable. (Milgrom 1990:231). A court of this nature in ancient Israel also served to legitimize the rule of the elders especially in a legal aetiology of inheritance rights of women (Levine 2000:341-348)

Vs.2b “..saying” They spoke for themselves and directly to the leaders. Their action has been hailed by succeeding generations as unique, importunate and honourable (Getui 1995:3; Branch 2003:914).

This translation challenges the Ogba and Ekpeye custom which does not allow women to air their views in public except when a man is advocating their cause, and this is where the Zelophehad narratives touches on the very nerve in which women’s inheritance rights in the area is hurting.

3 אֲבִינוּ מֵת בַּמִּדְבָּר וְהוּא לֹא־הָיָה בְּתוֹךְ הָעֵדָה הַנּוֹעֲדִים
עַל־יְהוָה בַּעֲדַת־קֹרַח כִּי־בִחַטָּאוֹ מֵת וּבָנִים לֹא־הָיוּ לוֹ

3. “Our father died in the desert. He was not among Korah’s followers, who banded together against the LORD, but he died for his own sin and left no sons.

3. Didi gùwóo nwù yá uwhnó, mà ó kò nwúba úka àni Kora yà itá gǎ wò knòshi Ánwóanwò; wá Ò nwùbari hné kpòà yá íshî, ma ó kò mudebe nw’iknénwǎ

3. Father theirs (3a) died in wilderness, but he did not die (3b) for the trouble that Kora and his group made against God; that he died for what his head caused (3c), and he did not born keep any male child.

Comment: A special feature of Ogba is that speeches are rarely reported directly. Thus the speech of the daughters of Zelophehad if translated literally as direct speech as the Masoretic and NIV does it, will make the narrative sound derogatory (Barnwell 1986:131-34). Therefore it is reported in the third person or as reported speech, and this is the only way it can make sense in the context. Yet the message about the sense of loss which characterized the daughters is retained in the translation.

Vs.3a “Our father died in the wilderness” The implication is that without a son to inherit his property, all that their father had would be lost. They pointed out the circumstances of the death of their father in detail: “He died for his own sin” or as Ogbu would say “he died for what his head caused”. According to Dozeman (1998:217) “By stating the facts so very clearly, the daughters “appeal to the principle of individual responsibility for guilt”, and this contrasts with an alternative possibility that he might have been a participant in Korah’s rebellion.

(3b) “But he was not part of Korah’s followers”. Syntactically, the second clause begins with a *vav* on a pronoun, marking it out as a disjunctive *vav*. In this context it fits best to take it as a circumstantial clause introducing concession. Again, the daughters argument could be understood as a statement that their was not part of the rebellion. The use of the Hebrew (*lo hayah*) can also mean “not in the midst of”. In other words Zelophehad might have been part of the rebellion, but as the daughters argued he was not among the ringleaders (Weingreen 1966:518-22).

(3c) “..he died for his own sin”, or as translated in Ogbu, “..for what his head caused..” Semantically speaking, the word order here is emphatic “but in/on account of his own sins he died”. If he died for his own sin just like every other Israelite parent who belonged to the older generation, then there was nothing to separate them from being in line to receive their father’s rightful inheritance except, perhaps, their gender (Branch 2003:913).

לְמָה יִגְרַע שֵׁם־אֲבִינוּ מִתּוֹךְ מִשְׁפַּחְתּוֹ כִּי אֵין לוֹ בֵּן
תִּנְהַלְנוּ אַחֲנָה בְּתוֹךְ אֲחֵי אֲבִינוּ:

4. Why should our father’s name disappear from his clan because he had no son? Give us property among our father’s relatives.”

4. Ndáa hné éwhná ká didi wò bà whuruni yá òbudò yá úka ka amú nw’iknenwa? Wá o niga wò wò mkpe ka didi wò ka wò ria y’ede ani o bò dú umúnea wò.

4. Why should the name (4a) of our father be lost from among his clan because he has no son? That they should be given his inheritance (4b) to share among their father’s relatives(4c).

Comment: The verb (Heb. *yiggara*) used here for “be lost” could also be translated better still as “be cut off” and is a nifal imperfect 3rd person masculine singular, refering specifically to a man.

Similarly the noun used for father's relatives is one that has an emotive content seen in the speech of the five daughters, and which a translation can capture (Nida 1986:15). That has been expressed broadly or in a more inclusive sense both in Ogba and English as "umune w₀" (father's relatives) and is quite close to the Masoretic rendering of it as "father's brothers". This point is further elucidated in the explanatory notes hereunder.

Vs. 4 "Why should our father's name be lost (deleted) from the family record...Give us a possession among the brothers of our father...." The words that strikes one here are "name", "possession", and "relatives".

(4a) The preservation of a man's name is possible only if in association with the inheritance of land by his descendants (Noth 1980:210). The daughters therefore expressed concern for the preservation of their father's name and their own inheritance claims (Branch 2003:913). Apparently, land has to be registered in a name. So the perpetuation of a name is dependent on inheritance of land. No son, in a patriarchal system, means no name. The daughters therefore pressed for a place for the name of their late father (Levine 2000:343).

(4b) Two Hebrew words "*ahuzzah*" and "*nahalah*" can both refer to a possession personally acquired, or one which has been transmitted through one's forebears. However, the word that is most commonly associated with "inheritance" is "*nahalah*". Evidently, the ladies were more concerned with not only preserving the name of their late father, but also with retaining land in their individual capacities as daughters of a free Israelite within the context of the larger socio-economic unit – the *mishpahah*. They were interested in acquired land not one obtained through conquest which is what *nahalah* would imply, hence their use of the word "*ahuzzah*" (Noth 1980:210-12).

The translation has retained this sense by using one word "*mkpé*" to cover both, whether what they received was "*ahuzzah*" or "*nahalah*". A synonym for "*mkpé*" is a word which has to do with one's share or portion, "*ùgwè*", and which one can use as one wishes, more like the Hebrew "*ahuzzah*". The difference lies in the fact that the distinction between "*mkpé*" and "*ùgwè*" is broader than can be said of "*ahuzzah*" and "*nahalah*".

For instance, priestly authors often used "*ahuzzah*" as a synonym for "*nahalah*" thereby obliterating the thin distinction between the two (McKeown 2003:489). We have discussed this extensively in the second chapter (see 2.3.1.1) and need not belabour the point here.

Suffice it to say that by “*ahuzzah*” the daughters of Zelophehad meant land or property that they will individually possess in the land of Canaan. Their request recalls a legal precedence not previously covered in any of the law codes, namely, the inheritance of a man who died without a male heir (Nwaoru 2002:52).

(4c) The word in Hebrew translated as “relatives” can strictly speaking be interpreted more closely as “brothers”, in order to retain its masculine component. Anyone familiar with patrilineal culture will understand that “relatives” and “brothers” in this context are synonymous. The daughters of Zelophehad stated their case clearly that they be given a possession of land that will be distinctly theirs. Moreover, this possession should be among the brethren or relatives of their father.

This was revolutionary and a disdain for the existing culture whereby only males inherit land or property (Getui 1995:3). The motif however is no other than the preservation of the name and property of the dead (Num.27:4), and this is closely associated with their struggle to be given rights to their father’s property among his kiths and kin (Nwaoru 2002:52). That means the clan of Hephher (27:1) should not be left out since the land is distributed to the tribes according to their clans (Num.26:32).

An additional point suggested by the text is that their mother had died, for had she been alive she would have remarried one of their father’s relatives and so received an inheritance which would sustain her daughters until they got married. Without parents and without brothers, their case became a life and death issue, one in which they were desperate enough to breach all conceivable protocols in order to ensure their father’s inheritance under the new dispensation (Branch 2003:913). They could only survive at least temporarily if they held his inheritance in their hands as a means of economic self-support (Getui 1995:3).

5 וַיִּקְרַב מֹשֶׁה אֶת־מִשְׁפָּחַן לִפְנֵי יְהוָה:

5. So Moses brought their case before the LORD

5. Á bù má Moziz buri uka onwe le Ánwòanwò dâ chishi ikpe.

5. So he (Moses) brought their case before the Lord.

Comment: If the case was of such an importance that Moses could not decide it along with Eleazar and all the elders, but had to bring it before Yahweh, then the translation has captured that special feature. It has done this in Ogbia by using the expression “chishi ikpe” literally “to enthrone for judgement”. The status of a person chosen or “enthroned” for judgment on any particular issue determines the importance of both the case and the people involved.

Vs. 5 “So he (Moses) brought their case before the Lord”. The word translated “brought” literally means “to draw near with” (Heb. *vayyiqareb*) is from the same root as the very first word in the narrative (Num.27:1), except that in (27:1) it is a *qal imperfect* showing performance, whereas in Num.27:5 it is a *hiphil imperfect* showing causality. Hence it is translated this way.

The case of the daughters of Zelophehad caused Moses to approach Yahweh for a resolution on their behalf. Milgrom (1990:232) has pointed out that during this time in ancient Israel, only Moses was qualified to bring this case before the Lord as implied in Exodus 18:19, exemplified in Leviticus 24:13 and Numbers 9:8-9 and 15:35-36.

Moreover, he brought it before the Lord so as to receive an oracle or a ruling. In such an unprecedented case nothing else will do (Dozeman 1998:218). Moses is praised by some for his ability to rely on God at crucial moments of decision such as this, whereas others find his action as betraying an innate character flaw for which Yahweh humiliated him (Budd 1984:302; Milgrom 1990:232). Early in his Exodus ministry Moses had confidence in himself enough to ask the officials to bring only the difficult cases to him (Ex.18:16,26), but during this conclusive period it seems all his self-confidence has evaporated.

Those who are inclined to think this way should not forget that Moses was a man described in Numbers (12:3) as the most humble, and one who in word and deed was mighty in that he always put the best interest of his people above all personal considerations. Besides, a matter of inheritance by women was of such an unprecedented significance that it required a ruling which the people will see as not only emanating from the elders of Israel as a whole, but also from Yahweh Himself (Branch 2003:913). Perhaps, the priestly editor is concerned that such an issue if not addressed by Yahweh himself, as has been the case with all other laws, would place the inheritance rights of

women handicapped by unusual circumstances under a very shaky canopy (Noth 1980:210; Milgrom 1990:xix).

6 וַיֹּאמֶר יְהוָה אֶל־מֹשֶׁה לֵאמֹר:

6. and the LORD said to him,

6. Á bù má Anwoanwò kwùni Moziz òkwù gbâ wa:

6. And He (the Lord) spoke to Moses, saying:

Vs.6 “And the LORD spoke to Moses saying” The NIV translation apparently lost sight of a qal infinitive construct “saying”, and this has been corrected in the Ogba translation. Moreover, Yahweh’s oracular decision would establish a binding precedent for the future. The priestly editor seem to be concerned about this also. That Yahweh responded promptly and positively to the demands of these daughters shows that He is a caring and faithful God, who does not despise the yearnings and aspirations of women for economic self-reliance and equality. As aptly put by James D. Hester “both land and people are the special, inalienable possession of God and enjoy the privileges of God’s special care” (Hester 1968:26; see also Ulrich1998:535).

It is difficult to determine whether there is an ancient tradition behind the narrative or whether the Priestly redactor used traditional material. Moses consort with Yahweh as Budd (1984:300) points out “seems to be a regular pattern in very late parts of the Pentateuch, when the corpus of Sinaitic law was complete, and also the deuteronomic corpus given on the borders of the land”. For this reason, the story has been associated with a Midrashic origin, which the redactors later placed in the Torah because of the important issue it deals with, namely the inheritance rights of women of unusual circumstances (Noth 1980:210). On the other hand Snaith (1966:126) associates the story with the Priestly intention to justify the settlement of the tribe of Manasseh on the West bank. Ashley (1993:544) is however not convinced even if Snaith’s argument may point to a secondary use of the narrative.

Both Budd (1984:300-301) and Ashley (1993:544) think that the purpose of the narrative could have still been served even if the narrator had used male instead of female descendants to justify Manasseh’s rights to inheritance on the West of Jordan. Why would

the narrator take the trouble to introduce the complexifying factor of women (even to the point of inserting it in the Census document of Num.26) if his main aim was Manasseh's rights instead of the inheritance rights of women?

Be that as it may, we are not told the process by which God and Moses communicated, except that, as we pointed out earlier, Numbers 12:8ff offers a very useful hint (Ashley 1993:546).

7 כֵּן בָּנוֹת זִלְפֶּחֶד דְּבַר־תָּתִן תִּתֵּן לָהֶם אֲחֶזְתָּ נַחֲלָה בְּתוֹךְ
אָחֵי אֲבִיהֶם וְהִעְבַּרְתָּ אֶת־נַחֲלַת אֲבִיהֶן לָהֶן:

7. "What Zelophehad's daughters are saying is right. You must certainly give them property as an inheritance among their father's relatives and turn their father's inheritance over to them.

7. Hné mè àmè ka umu adna ká iZelophehadi kpàri. Nigani wò mkpe y'ede o du didi wo, ka wo sno ri mkpe du didi wò y'ede ani o bo du umunea wò.

7. Right (7a) is what the daughters of Zelophehad has said. Give to them an inheritance in the same place that their cousins will have their share (7b).

Comment: Both the Hebrew word "*ken*" which in English is translated "*right*" is translated literally as the "right thing which has always happened", and it resonates with both the religious ethos of the ancestors as well as with the world view which incorporates both the ancestors and those yet unborn (Yakubu 1985:16). Consequently, the Ogba here uses "Hne me ame" or as the Ekpeye may say "Hne m're eme zhi kpom" literally "The right thing that happens". In this rendering of Hebrew "*ken*" the translation speaks naturally to the receptor audience, because it integrates in a speech form the people's past, present and future and portrays their worldview. This is further expatiated in the explanatory notes that follow below.

Vs.7a "Right is what the daughters of Zelophehad has said" In the Hebrew it is the participle *doberot* used with *ken*. Literally, the daughters of Zelophehad used pleading words and so were recognized as speaking right. Hence, the Lord was swift in answering on the side of the daughters of Zelophehad (Dozeman 1998:218). Moses should "indeed" transfer Zelophehad's inheritance to his daughters.

7b “..in the same place their father’s brothers will have their share”. The Hebrew text uses the *infinitive absolute* with the imperfect tense. “The *imperfect* is functioning as the imperfect of instruction, and so the infinitive strengthens the force of the instruction”. (BHS 1990:264). Similarly, the word “transfer” *he ‘abar* signifies “ to pass something over” and is used only in connection with the inheritance to be passed over to the daughters (Num.27:7).

When the inheritance is to be given to males the word changes to *natan* or “grant” (Milgrom1990:232). There is a mix of gender suffixes which are found in the Hebrew text as is common to Hebrew, but that should not obscure the specific reference to women here whose share of the inheritance is to be reckoned along with their male counterparts (Nwaoru 2002:52). The fine distinction between “grant” and “transfer” is difficult to reflect in Ogba, but the sense of the daughters being co-sharers is retained.

Milgrom (1990:232) has pointed out that the “transfer” is from the qualified to the unqualified, or the movement of an object or property from one domain to another. The inheriting of property by daughters seems to signify such a transfer, whereas that by sons does not connote a transfer as such, as sons are extensions of their fathers and technically part of the same domain (Ashley 1993:546). Thus the agnatic principle has to be restored as quickly as possible in the order of succession either in the long run through the daughters or in the short run through the sons or brothers (Meyers 1988:19).

8 וְאֶל־בְּנֵי יִשְׂרָאֵל תִּדְבֹּר לֵאמֹר אִישׁ כִּי־יָמוּת וְבֵן
אֵין לוֹ וְהִעְבַּרְתֶּם אֶת־נַחֲלָתוֹ לְבָתּוֹ:

8. Say to the Israelites, ‘If a man dies and leaves no son, turn his inheritance over to his daughter

8. Jè dà lé umu Izreni kwúni gbâ, wá ó bú kà nwokno lè nwú má mà ó kò múdébé nw’ikénwă, lénì nw’inyénwă ó mù sání mkpé gă eka kà ó ría

8. For the sons/children of Israel you must tell, saying, if a man dies and has no son/male child, let his daughter/female child eat his inheritance.

Comment: The Hebrew *'ebir'* which in English is rendered "*transfer*" will also be offensive to the Ogba because of its sociological implications, namely that the daughter takes the land with her wherever she goes alive or dead. Instead, the Ogba translation uses "sani mkpe gǎ *eka*" literally "let his inheritance alone" so that a man's descendants can "eat it". The idea of leaving it alone agrees with the worldview that land use is a temporary, not a permanent right of anyone. At death man or woman's relationship to the farmlands is terminated (Nwaoru 2002:55-60).

Vs.8a *"You shall say to the Israelites, 'If a man dies, and has no son, then you shall...The divine judgement in vs.7 already gives the daughters of Zelophehad the right to an inheritance among their father's brothers, but then it is followed by a ruling in vs. 8a which henceforth would be valid for Israel as a whole (Budd 1984:212). "...if a man dies. Heb. " a man, if he dies" showing that the focus is on the subject "a man". In other words, the demise of a man leaves open his inheritance to be given either to his sons and if he has none, then it is transferred to his daughters. We have previously mentioned the distinction between "transfer" and "grant" in the previous verse.*

It is instructive to note that from this singular case comes a ruling which eventually became a permanent law – indeed an additional law "to be made an ordinance for all Israel for the future, which establishes and sufficiently secures the rights of succession in matters pertaining to inheritance" (Nwaoru 2002:53).

Vs.8b-11a *transfer his inheritance to his daughters, and if..then give..and if..then give..to the nearest kinsman of his clan, let him possess it...* Henceforth, the following would be the order of inheritance: son, daughter, brother, paternal uncle, nearest clan kinsman. It is the same order (except for daughters) followed in Lev. 25:48-49, which deals with the case of redemption of land in the Jubilee year.

Comment: Scholars think that the case of the daughters of Zelophehad signified a more traditional pattern of inheritance in Israel, rather than positing a unique feature (Snaith 1966:125; Levine 2000:357; Noth 1980:211-212). This is in no way intended to dilute the literary or historical substance of the narratives (Budd 1984:300-301).

Dozeman (1998:218) identifies four case laws emanating from the claims of the daughters of Zelophehad, namely, 1) a man's daughter inherits his property in the absence of a male

heir (vs.8). This is followed by three other case laws which transcends the narrative of vs1-7. These laws underscore the patrilineal nature of inheritance in ancient Israel, meaning that inheritance is passed to males through the father's side. Hence, (2) if a man died childless, then his inheritance would pass on to his brother or brothers (vs.9). (3) In the absence of brothers, then his father's brothers would inherit (vs.10); and (4) if there are no paternal uncles then a near kinsman of the same clan would inherit (11a).

As far as the inheritance laws of ancient Israel are concerned, Snaith (1966:124-127) has pointed out that the narrative of the daughters of Zelophehad is exceptional. In his opinion the story is not really about inheritance in legal terms, but an attempt by the Priestly editor to explain how the tribe of Manasseh came to occupy territory on the West bank of the Jordan river (cf. Jos.17:1-6). Other scholars think that the same would have been true if the narrator had used sons instead of daughters (Budd 1984).

Budd (1984:301) shares the view that a relationship exists between marriage and inheritance rights, and this is what the Priestly editor seems to be emphasizing, especially when the inheritance principles set out in Deuteronomy is considered. The actual intention of the Priestly editor could have been to abrogate the law of Levirate marriage (Dt.25:5-10), by giving daughters the right to possess land like their male counterparts within the *mishpahah*.

Be that as it may, the stipulations does not diminish the Levirate law. Instead, it extends the principle as Budd rightly observed. It ensures that even should there be no sons and daughters a man's inheritance is kept as close as possible within the *mishpahah*. This divine ruling is therefore intended to affirm the value of maintaining land with each family, so as to secure the economic base of each family against any future decimation or encroachment. This could also be the reason behind the Jubilee legislation which stipulates that land be held by a man and his family in perpetuity (Lev.25:10).

9 וְאִם־אֵין לוֹ בֵּת וְנִתְּתָם אֶת־נַחֲלָתוֹ לְאָחָיו:

9. If he has no daughter, give his inheritance to his brothers.

9. Ó bú ka ò débéyé m'ohnú nw'inyénwă lénì nwánne ikénwă o mù nìga mkpe gǎ kà o rí.

9. (If) it be that he has not any daughter, give his inheritance to his brother to eat it

10 וְאִם־אֵין לוֹ אֲחִים וַיָּנַחֲלֵם אֶת־נַחֲלָתוֹ לְאָחִי אָבִיו:

10. If he has no brothers, give his inheritance to his father's brothers.

10. Ó bú kà òdié nwánné a wò ikénwă á yă mùrnù, wèrínì nwánné dídia wò ikénwă nìgá mkpe gă kà ó rí.

10. (If) it be that he has no brothers, then give his inheritance to his father's brother to eat it.

Comment: While the heir is alive he enjoys the inheritance, but also shares this enjoyment with the rest of the *mishpahah*. He or she does so by contributing to the social and economic well-being of other less privileged people within the clan or kindred, and by fulfilling the religious and ritual obligations of the cult, as well as by observing the do's and don'ts of the land (interviewee source: Ajie, J. *ibid*).

11 וְאִם־אֵין אֲחִים לְאָבִיו וַיָּנַחֲלֵם אֶת־נַחֲלָתוֹ לְשֹׂארוֹ

הַקָּרֵב אֵלָיו מִמִּשְׁפַּחָתוֹ וַיֵּרֶשׁ אֹתָהּ וְהָיְתָה לְבְנֵי יִשְׂרָאֵל

לְחֻקַּת מִשְׁפָּט כְּאֲשֶׁר צִוָּה יְהוָה אֶת־מֹשֶׁה:

11. If his father had no brothers, give his inheritance to the nearest relative in his clan, that he may possess it. This is to be a legal requirement for the Israelites, as the LORD commanded Moses."

11. Ó bú kà òdié nwánné didi ikénwă á yă mùrnù, nìgàni ohnú ényé ewhu gă ikénwă yá ónúmirna gùwóo kà ó ría. Ónwùnià á bù ìwû umu Izreni ba jé dâ mébá òmélali, sâ òdăni Ánwoanwò kwùni Moziz.

11. And if his father has no brothers, give his inheritance to any of his near kinsman let him eat it (11a). This will be a law (11b) which the children of Israel will observe as custom, as God has commanded Moses.

Comment: As I previously mentioned in the 5th verse, the source of any legislation is as important, but not more important than the channels through which the legislation was communicated to the people. The fact that the elders of the tribes of Israel were all

associated with Yahweh's final legislation on the inheritance rights of Israelites men and women, especially in the order of succession is a message that can be well received among the people whose self-government has been through gerontocracy (Afigbo 1967:683-700).

Vs 11a (see above 8b – 11a)

Vs.11b *It shall be for the Israelites a statute and ordinance, as the Lord commanded Moses.*” The Hebrew *lehuqqat mishpat* “a statute and judgement” clearly portrays a legal terminology (Budd 1984:302). This designation of divine law occurs only one other time (Num.35:29), as a conclusion to the laws concerning the cities of refuge (Dozeman 1998:218), and this has been captured in the Ogba translation as well.

The request of the daughters of Zelophehad to inherit property provides a model of change within the Ogba tradition. In spite of the negative aspects in the life of ancient Israelites and of women in particular, Numbers 27:1-11 is a message that provides clues that such a situation can be transformed, if not totally changed. The narrative shows that God is Himself in favour of such a social transformation (Getui 1995:3; Dozeman 1998:222; Jonker 2001:259). The structure of the text with its emphasis on obtaining a special revelation from God, makes this point clear, though the change in inheritance law is, as Dozeman observed, not made so clear.

5.5 Endogamy and Tribal Integrity

In a parallel narrative (Num.36:8-9) the daughters of Zelophehad were required to marry within their father's *mishpahah*. This was to ensure that the tribe constituted the outer limit of the right to inherit land or redeem it when lost or alienated. Consequently, “Every daughter who inherits land in any Israelite tribe must marry someone in her father's tribal clan, so that every Israelite will possess the inheritance of his fathers. No inheritance may pass from tribe to tribe, for each Israelite tribe is to keep the land it inherits.” (Milgrom 1990:xxxvi). Even in post-exilic Israel this rule was minutely observed (see I Chr.23:22).

Marriages of this nature would be considered incestuous among the Ogba and Ekpeye of Nigeria (Nwaoru 2002:55-60; Getui 1995:3-6). Yet there are very few instances in which such marriages were transacted in the past and the result was very fruitful. In order to

maintain tribal integrity which is so important for ancient Israel and for modern Ogba and Ekpeye, there is need to translate all the Zelophehad narratives together, and not one in isolation of the other (Num.27:1-11; 36:1-12; and Jos.17:1-6). Like in ancient Israel, inheritance of land at the tribal level is problematic. Land is usually owned and used at the clan, or even at the extended family level. The inheritance was shared at the tribal level, but it was at the Individual *bet abot* and at the *mishpahot* level that it was finally received and utilized (Dybdahl 1981:84).

The reason was the fictional nature of tribal allegiance, based not on real, but fictional ancestral links. Such a fictional component in tribal allegiance made the line of kinship too vague to support the rights and duties of inheritance (Westbrook 1991:55). Even more than that, the concept of tribal ownership of land was usually interpreted as an aggregate of all the inheritances of constituent clans and kindreds, while the regular use of land was effected at the level of the kindred (*mishpahah*), or father's houses (*bet ab*).

So much for tribal integrity which points to Yahweh's overarching purpose for Israel, namely, that what they had they should hold perpetually. Therefore the tribe, clan, kindred and father's houses were to safeguard the interests of relatives who alienated family inheritances as a result of poverty, disaster or death. *It is better for a female relative to receive part of the inheritance and be married within the kindred, than for the inheritance to pass out of the kindred into another kindred, clan or tribe through neglect or impoverishment* (italics mine). This is why the daughters of Zelophehad not only received inheritance in their own right as citizens, but also had to ensure its perpetuation within the tribe through endogamous marriages (Ashley 2003:544; Boecker 1976:120-21; Dybdahl 1981:91-94).

It is a point which can be considered in exogamous cultures such as the Ogba and Ekpeye in Nigeria.

It also points at the Biblical evidence, namely, that the aim of all redemptive acts in respect of both endogamous and Levirate marriage is to protect the family estate and the name of the affected persons from obliteration out of the family records (Branch 2003:914). Boaz took Ruth as his wife for example, "to raise up the name of the dead upon his inheritance, that the name of the dead be not cut off from among his brethren, and from the gate of his place" (Ruth 4:10). As Deuteronomy puts it, the law is to be observed so that "the name be

not blotted out in Israel" (Dt.25:6). There is a very great significance attached to the names of individuals and families in both ancient Israel, and among the Ogba and Ekpeye peoples today. Rather than being known by their professions or social status, men and women today were known through their individual and family names.

How then do we interpret or read the request of the daughters of Zelophehad? Two possible interpretations have been suggested. **First**, the request can be seen as a rejection of the Levirate law. This would mean that the daughters have a right to inherit independently of any male figure. In that case the change is significant. P.J. Budd (1984:300-301) interpreted these women's request (the daughters of Zelophehad) as such a rejection, since the Priestly editor makes no mention of levirate law in resolving the problem of lack of males to inherit. Budd's argument is that such a rejection totally conforms to the priestly legislation against incest (Lev.18:16; 20:21).

Second, if the request for an inheritance by daughters is an extension of levirate law, then less change in traditional practice is intended. At this juncture, it is pertinent to note the marriage restrictions placed on the daughters of Zelophehad should they have a part in the inheritance of their father (Num.36:1-12). As Dozeman (1998:222) again pointed out, that such a restriction became necessary in view of the levirate sounds plausible. It suggests that daughters who held land would turn it over to their husbands after marriage, thus maintaining the patrilineal system of inheritance.

The attention of modern readers has been drawn to the request of the daughters of Zelophehad because of the issues of gender implied in their legal request. The text itself (Num.27:1-11) emphasizes that change is indeed part of the biblical tradition. As such, it provides a basis for evaluating change in gender roles in for instance, Nigerian culture. Yet it leaves one with scepticism when viewed against the background of the relativity inherent in all cultures. Although there are lots of similarities between ancient Israelite and contemporary Nigerian culture, one should not underestimate the fact that the social background of Biblical literature is often far removed from contemporary life and therefore unable to provide concrete models for contemporary social concerns. The power of the text however lies in its modeling of social transformation (Getui 1995:7; Dozeman 1998:222).

The challenge is that women should not be content nor should they allow anybody or themselves to be silenced. They have an obligation to constantly and persistently say no to injustice and unrighteousness. And when they do so, their voices should be broadcast for all to hear. This will stimulate interest in women and gradually bring about a change of attitude towards them in the wider society.

5.6 CONCLUSION

In this chapter we have attempted to do both a functional equivalence translation of our pericope as well as give explanatory notes as to why we chose to translate the way we did. It has culminated in a textual overview of our pericope, looking at it from several literary angles and perspectives. We brought out certain basic legal, sociological and theological features which make the narratives so significant in resolving the problems of inheritance rights for women.

The restrictions placed on the daughters of Zelophehad definitely entails their marrying into their father's *mishpahah*. Since as some commentators say, this narrative is aetiological it could serve both a literary, historical, and theological purpose highlighting the need for social transformation based on "Hne mere eme" (lit. right thing that always happened) a phrase which catches the attention of both the Ogba and Ekpeye when it comes to yielding to change and social transformation.

Thus if endogamous marital relationships can reduce the oppressive rule of men over women, and it has happened elsewhere, then it can also happen among the people of Ogba and Ekpeye.

There is no gainsaying the fact that a functional translation approach to, and incisive exegetical comments on our pericopes can help to defuse the current gender tension in the Nigerian society.

The land grant to the daughters of Zelophehad and the ordinances that went with it – particularly those relating to endogamous relationships in preservation of tribal integrity – set Israel's legal system on a path of transcendence far ahead of the legal systems of various communities within the Ancient Near East. It still remains for this text to be

elucidated among the Ogba and Ekpeye people so that its literary and theological value can be applied to their culture for social transformation.

CHAPTER SIX

CONCLUSION

6.1 EVALUATION OF HYPOTHESIS

The central concern of this thesis has been to examine the rights of women to inherit land as depicted in Numbers 27:1-11, and to show how this Biblical narrative can address a problem which confronts people in the Niger Delta today (Amadi 1982:72). In addressing this problem we have employed the use of a functional equivalence approach to Bible translation to highlight salient features of our pericope which most often is glossed over in Churches and Christian circles (West 2001:29-53). It is remarkable to note that women were considered eligible for inheritance rights at a crucial moment in Israel's history (Branch 2003:903).

My experience in reading the new Ogba New Testament translation during Sunday worship service in both Eternal Life Bible Church (Reformed) and Our Saviour's Anglican Church in Erema community of Nigeria has shown a remarkable responsiveness on the part of the parishioners. Not only did their punctuality to services improve, but also the numerical strength of the churches increased within a short period of September 2002 to January 2003.

If one were to test a translation of our pericope which forms part of the Old Testament, among the people in order to assess the impact which a functional equivalence approach to Bible translation can make, perhaps the result will be as positive as was experienced during the reading of the New Testament translation which also used the same functional equivalence method. It is my hope that with adequate financial support the opportunity of further research into the relationship between a functional equivalence translation and a dissolution of the cultural bias against women inheriting land can in future be empirically ascertained (West 2001:595-610).

The cultural similarities between on the one hand the ancient Near East and Israel, and on the other hand the Ogba and Ekpeye communities in Nigeria provides a good sounding board for assessing the impact which a functional equivalence approach can make on a society such as ours, given all the logistics of an empirical research (cf. Letlhare 2001:474-

480). Such a translation can lift the reading of an otherwise obscure passage such as the Zelophehad narrative into the limelight of Church liturgy in the society. Thereby creating the necessary impact on the inheritance rights of women, and bringing about social transformation (Mojola 2001:524).

This research indicates the hermeneutical interrelationship existing in the areas of : **1)** the cultural practices of the ANE in general, **2)** the inheritance traditions of Israel in particular, and, **3)** gender partnership in Nigeria, especially among the Ogba, Ekpeye and Igbo.

6.2 INTERRELATIONSHIP OF ANE, ISRAELITE AND NIGERIAN CONTEXTS

As a fitting conclusion, it might be necessary to point out the cultural interrelationships existing among the above-mentioned contexts with a view to showing how a functional equivalence approach can take advantage of such similarities in highlighting the relevance of Biblical texts such as the Zelophehad narratives. Although separated by several millenia of time and thousands of kilometres, the cultural uniqueness of the societies under review display a great deal of shared features which can be briefly summarized below.

6.2.1 ANE

A common feature of the ANE social and religious ethos is a bias towards patriarchy and patrilineal society. Women generally were not given land as inheritance (Harris 2000:948). The reason generally was that women married into other families and so could not inherit land in the same manner as their male counterparts do, since on marriage they became automatic co-heirs of whatever inheritance their spouses might have had (Meek 1957:134).

Instead, women were given a dowry when they moved into their matrimonial home. Since land is immovable property, it could not form part of a dowry given to women (Westbrook 1991:147). An exception to this rule was found among the royalty of Egypt, where land gifts were occasionally made to daughters who married. Pharaoh's land gift to his daughter who married king Solomon is a case in point (I Kgs 9).

The general tendency in the ANE seem to point at land inheritance by males only, and in the exceptional cases where land was given to women such women were not allowed to

be married outside of their father's kindred. The possibility of a woman owning land acquired through purchase with her own money was not ruled out (Pro.31:10-17), but at death such land passed into the hands of her sons or brothers. Therefore, the conventional line of inheritance tended to be restored to male descendants (Bird 1992:952). Similar practices are true of ancient Israel and contemporary Nigeria, which means that a translation which reflects these source culture practices in a way natural in the receptor culture can go a long way in producing results of transformation which the source culture once knew (Adamo 2001:336).

6.2.2 Ancient Israel

As we examined the case of the daughters of Zelophehad against the background of the land grant narratives, we saw basic theological and religious structures which guaranteed the security and integrity of tribal inheritances (Wright 1989:90-91). Those structures ensured that the inheritance rights of women who for one reason or another did not have the direct economic support of their male relatives were guaranteed (Bird 1992:952). Religious structures, which included the Levirate, Sabbatical year and Jubilee laws, have enabled the faith community - and especially women - to fit into a male-focused and male-originated land tenure and inheritance system within Israel prior to, during and even after the conquest. (Dybdahl 1981:86).

The Levirate for instance is practised among some Nigerian communities such as the ones covered in this study including the Igbo, Yoruba, Ogbia and Ekpeye (Meek 1957:186; Ayandele 1966:69). The important place occupied by women in matters of land inheritance can further be appreciated when cultural institutions such as the Levirate is evaluated. Whether in the ANE, Israel or Nigeria the intention is the same – namely – the protection of the family name and patrimony through the male line (Ashley 1993:544; Boecker 1976:120-21).

For this reason the land grant covered in our pericope has been described as supplementary, because women who received such inheritances were later to pass them on to their male descendants or relatives as the case may be, thereby restoring the normal pattern of patrilineal inheritance (Ashley 1993:541; Nelson 1997:9).

For this reason women, who like the daughters of Zelophehad strove to be part of their ancestral inheritance, were implored to engage in endogamous marriages. This was to ensure that land was not transferred from one tribe to another (Milgrom 1990:36). No intimation has been found anywhere to support the notion that women were inherently incapable of retaining inheritances given to them; nor were there any trace of gender weakness for which inheritances could not be passed on to them.

Yahweh has included them in the line of inheritance (Num.27:1-11; 36:1-12; Jos.17:2-6), and scholars such as Olson (1993), Maarsingh (1987), Dybdahl (1981), Boecker (1976) and others aptly underscore the uniqueness of such a novel legislation in comparison to other cultures. Through a functional equivalence translation similar novelty can be cultivated in these other cultures.

6.2.3 Contemporary Nigeria

Socially and religiously, no stigma has been attached to any woman inheriting land in Nigeria (Nwaoru 2002:55-60). Instead there is a legislation known as the Land Use Decree intended for both men and women who aspire to acquire land for both residential, industrial and agricultural purposes to do so (Yakubu 1985:257). The underlying assumption however is that women who inherit or acquire land do so as partners either with their husbands or with the support of their male counterparts. In Nigerian society neither men nor women are considered respectable and credit worthy without the other (Amadi 1982:48). As daughters of their fathers females were provided for from the family patrimony, and as wives of their husbands they were entitled to their fair share in the patrimony as married couples (Harris 2000:947).

This in itself was not and could not be regarded as a bad thing. For as an African proverb says "what goes into the eagle's mouth also finds its way into the kite's stomach" (Emeri, C 52 years, interviewed Feb.4 2004, Erema, Rivers State, Nigeria). Men and women were expected to complement each other in their roles in society (Uchem 2001:84; Nwabueze 1972:167). As far as land inheritance was concerned, women's part in the inheritance was generally considered supplementary and an aberration which should be corrected as soon as a male heir appeared in the family line.

6.3 THE FAMILY NAME

Apparently, the link between land and the survival of the family is well established in all the cultures under review (Brueggemann 1977:62). Moreover, such a link exists between inheriting land and perpetuating the family name, which was one of the concerns of the daughters of Zelophehad (Branch 2003:913). With the existence of such shared sentiments in all the societies under review, it is possible to exploit narratives such as that of the daughters of Zelophehad in bringing home the message that the quest for inheritance rights by women is legitimate in cases where there are no male heirs to perpetuate the family name, using the functional equivalence approach to Bible translation (Mijoga 2001:374).

The boldness with which the daughters of Zelophehad asserted their claims underscores the importance of the family name (Levine 2000:341). The Bible is replete with several legal provisions, like the Levirate and Jubilee laws, made to guarantee the continuity of not only the family inheritance, but also the family name (Olson 1996:162-63). The role of women in ensuring this cannot be overemphasised, as the example of the Zelophehad daughters, and of Naomi, Ruth and Boaz shows. A responsible interpretation and translation can go a long way in inducing social transformation in matters of inheritance rights of women (Nkomazana 2001:223-5).

6.4 SUMMARY OF RESEARCH RESULTS

In chapter one we presented both the problem, hypothesis and methodology with a definition of key concepts. We proceeded to discuss existing research, particularly on Numbers (with occasional reference to Joshua), one dealing with the formal request for an inheritance by women and the other narrating how the request was eventually granted. We also discussed the theological question of Israel's occupation of the Promised Land, and the four contending opinions in respect of how they eventually gained entry into the land.

In the second chapter we examined the various views on land in the ancient Near East and Israel with a view to illustrating the land tenure practices, as well as the invertebrate link

between land, kinship and inheritance traditions. In the third chapter, we focused on the social and religious status ascribed to women in the ancient Near East and Israel, with a view to highlighting instances in which women's rights to the inheritance of land were recognized and even fostered. The roles of women in both the economic and social wellbeing of the family was also highlighted.

In the fourth chapter we discussed the inheritance rights of women in parts of Nigeria, and the effect which modern government have had in encouraging Nigerian women generally to acquire land. This it has done through the promulgation in 1978 of a bogus Land Use Decree. Although the Land Use Decree in Nigeria recognizes the individuality of women, it does not alter the traditional patriarchal, patrilineal and patrilocal values which undergirds the inheritance line in nearly all sections of the Nigerian society irrespective of ethnic or religious affiliation.

Nevertheless, there now exists a constitutional backing for women interested in acquiring land as an inheritance, even though at death this still has to be passed on through the male line either through her sons or her kinsmen as the case may be.

Finally, in the fifth chapter we have applied the functional equivalence approach in translating the Zelophehad narrative. We have also shown how it improves upon a more literal translation like the NIV. Not only is the translation considerate of the source context, it also utilizes the more natural forms of expression in the target context. Finally, explanatory notes are given in those parts of the text in which a functional equivalence approach has given to the target audience a more lucid and promising translation.

6.5 AREAS FOR FURTHER RESEARCH

In all humility one will acknowledge that no Old Testament translation using the functional equivalence approach exists today in both Ogba and Ekpeye, and so research on the impact of a consistent reading of Scripture among the Ogba and Ekpeye people has not been carried out, except in the case of empirical evidence gleaned by the author in his reading of Ogba New Testament in two churches mentioned earlier, namely, a Reformed and an Anglican Church.

This is an area which calls for further research therefore, especially with respect to inheritance narratives like that of the daughters of Zelophehad. What difference does it make to the people to know that the Bible supports women inheriting land in exceptional cases such as this? Issues such as this could be further investigated through empirical research which for financial and logistic reasons may be taken up at a later stage.

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